

REPORT ON THE JORDANIAN LEGAL FRAMEWORK FOR BROADCASTING

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May 2016

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Introduction

Background and Objective

This report has been commissioned by UNESCO as part of the EU-funded three-year project **Support to Media in Jordan**, which aims at increased freedom, independence and professionalism for the Jordanian media sector. This project was designed to support the Government of Jordan's effort to implement the media reforms expressed in the Media Strategy adopted in 2011.

One of the key objectives of these reforms is to ensure that the legal and regulatory framework for broadcast media is strengthened and reviewed so as to support the development of an independent, quality based media sector serving the entire population that is able to foster social cohesion and democratic dialogue in the society.

Contents

This report will review the existing broadcasting system and propose recommendations to amend it so as to ensure it balances freedom with responsibility, in line with international standards. It is comprised of five parts:

- Part I: Jordan and international standards on freedom of expression and media regulation;
- Part II: Principles and rules to follow to create a strong and independent media sector;
- Part III: Licensing regime
 - Appendix 1: Example of a framework for the award and operation of a licensed community radio service
 - Appendix 2: Example of a model license to provide a private generalist television service
- Part IV: Analysis of Jordan's Law of the Audio and Visual Media 26 of 2015 and of the Bylaws on the Radio and TV Broadcasting and Rebroadcasting License No. (163) of 2003 (with proposed amendments);
- Part V: Principles for a successful switchover from analogue to digital television.

PART I: Jordan and international standards on freedom of expression and media regulation

A number of legal instruments, and first of all, the Universal Declaration of Human Rights (UDHR), and the International Covenant on Civil and Political Rights (ICCPR), as well as regional treaties in Asia, Europe, the Americas, and Africa taken altogether constitute a body of international legal standards on freedom of expression. Along with comparative best practices in the area of media regulation, they provide for minimum rules and guarantees States should respect to promote freedom of expression and the development of free media.

In a very troubled region, where the country is one rare area of stability, Jordan has been on a journey towards parliamentary democracy. However, concerns that increasing democratization and free expression will benefit groups who would be like to destabilize the Kingdom have led to a number of measures restricting the freedom and independence of the media sector. On this journey, Jordan has inscribed freedom of opinion and expression in its legal framework.

1.1 Jordanian legal framework

1.1.1. The Constitution (1952)

The Constitution of Jordan is the fundamental law of the land, where all acts of public institutions (legislative, executive, and judicial) must conform with it.¹

Its Article 15 provides for freedom of opinion and expression as well as freedom of the press. It states:

“The State shall guarantee freedom of opinion. Every Jordanian shall be free to express his opinion by speech, in writing, or by means of photographic representation and other forms of expression, provided that such does not violate the law.

Freedom of the press and publications shall be ensured within the limits of the law. In the event of the declaration of martial law or a state of emergency, a limited censorship on newspapers, publications, books and broadcasts in matters affecting public safety and national defence may be imposed by law.”

¹ In a historic ruling, the Higher Court of Justice declared the unconstitutionality of the Press and Publications Law no 27 of 1997 (ref. Journal of the Bar Association, Volume 1&2, January-February 1998, p. 289). Although the Constitution (in Article 33) does not explicitly determine the status of treaties and agreements in the Jordanian legal system, and whether they are equal of national law or overriding, the Jordanian Court of Cassation has issued several rulings granting international treaties a higher status over national laws in the case of a conflict between the two. One example is the Court of Cassation’s ruling (25/4/2000 in case No. 2426/1999), which reads: "Bilateral or international treaties or agreements are binding and it is in a higher rank than the domestic law in case of contradiction". (Cassation Court's (Civil) ruling no. 2426/1999. Journal of Bar Association. 7th and 8th issue, July and August pp. 1788-1795) There are also numerous rulings by the Cassation Court; 818/2003 in 9 June 2003, 1477/2005 in September 2005, 4309/2003 in 22 April 2004 and 1824/1995 in 25 October 2005. (Replies of the Government of Jordan to the list of issues (CCPR/C/JOR/Q/4) to be taken up in connection with the consideration of the fourth periodic report of Jordan (CCPR/C/JOR/4) demo.thecodexdesign.com/...ccpr.../CCPR/.../Jordan/ CCPR.C.JOR.Q.4.A...). In a very recent ruling the Appeal Court of Amman 8495/2016 has reiterated the same judgment, see <http://bit.ly/1OKIM1M>.

The Constitution also provides for additional guarantees for freedom of speech in Parliament, and as a consequence, freedom of the press when reporting on these matters.

Article 87 of the Constitution states that: *“Every Senator or Deputy shall have complete freedom of speech and expression of opinion within the limits of the Internal Regulations of the Senate or Chamber of Deputies, as the case may be, and shall not be accountable for any vote cast, opinion expressed or speech made thereby during meetings of the House. Therefore, senators or deputies cannot be liable for opinions expressed during meetings of the House or committees. Such permissibility extends to include the media; hence, there shall be no penalty for publishing or broadcasting such opinions. However, said permissibility does not include deliberations conducted in secret sessions, nor does it include the House’s documents and statements unless listed on the relevant agenda or referred to the government.”*

1.1.2. The National Charter (1991)

In 1990, in conjunction with the start of a new era in Jordan marked by the termination of martial law and the holding of parliamentary elections, His Majesty King Hussein appointed a 60-member royal commission to draft guidelines for the conduct of political party activity in Jordan. The commission, which included representatives of all political groups in the country, produced a written consensus in the form of the National Charter. In June 1991, a national conference of 2,000 leading Jordanians adopted the Charter.

Although it was not a binding law, the National Charter demonstrated Jordan’s commitment to freedom of expression and freedom of the press. In the section entitled “Information and Communication,” the National Charter states that mass media *“play an important role in strengthening democratic processes.”* It continues as follows:

“Freedom of thought and expression and access to information must be viewed as a right of every citizen, as well as of the press and other mass media. It is a right enshrined in the Constitution and should under no circumstances be abridged or violated. The circulation of news and data must be regarded as an indivisible part of the freedom of the press and information. The state must guarantee free access to information to the extent that it does not jeopardize national security or the national interest. It must enact legislation to protect journalists and other information personnel in the fulfillment of their duties and to provide them with material and psychological security.”

1.2 International agreements and treaties

In line with the freedom of expression (FOE) and freedom of information (FOI) principles enshrined in its Constitution, Jordan ratified several legally binding international treaties protecting and guaranteeing media freedoms.

Although the Constitution (in Article 33) does not explicitly determine the status of treaties and agreements in the Jordanian legal system, the Jordanian Court of Cassation has issued several rulings

granting international treaties a higher status than Jordanian laws and legislations to the contrary.² In particular, the Cassation Court set a very important precedent on May 19, 2010, by basing on the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights a decision to overturn a verdict by the Amman Court of First Instance against a columnist and a weekly newspaper.³ It stated that:

“What the journalist did is within the framework of investigative reporting as stipulated by Article 19 of the ICCPR and is in the public’s interest and a legal duty based on the fact that the media has an important role in disseminating culture, science and news... from different sources and in line with Article 6 of the Press and Publications Law.”

It is now clear from this Cassation Court decision and other following rulings that international laws supersede domestic legislation; however, it would be desirable to reaffirm, in the preamble or in the first articles of the law, the principles of FOI/FOE, for instance by reference to, or reuse of the wording in, Articles 19 and 20 of the International Covenant on Civil and Political Rights.⁵

1.2.1. The Universal Declaration of Human Rights⁴

Article 19 of the Universal Declaration of Human Rights (UDHR) states that: *“Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.”*

Although the UDHR is not a legally binding document, it has influenced international common law, and has inspired many covenants and other legally binding human rights instruments, including the International Covenant on Civil and Political Rights.

1.2.2. The International Covenant on Civil and Political Rights⁵

As stated above, the International Covenant on Civil and Political Rights (ICCPR) has been integrated into Jordanian national legislation by being published in the Official Gazette in 2006, hence gaining the force

² One example is the Court of Cassation’s ruling in case No. 38/91 on May 18, 1991, which reads: “It is judicially agreed upon and established that effective local laws are applicable unless there is a provision to the contrary in an international treaty or agreement. This rule is not affected by a given domestic law being precedent to, or more recent than, International Law.” The binding force of international treaties and agreements on human rights/UNICEF publications.

³ The Amman Court of First Instance had found Moussa Dweikat and Al Marah weekly newspaper guilty of violating Articles 5 and 7 of the Press and Publications Law and Article 15 of the Contempt of Court Law for publishing a story in November 2008 on a Sharia judge’s decision to allow a couple to divorce because they had both been breastfed by the same woman. In the Cassation Court verdict, Judge Mohammad Tarawneh said “journalists have the right to report the news, as this right is guaranteed by the Constitution and relevant legislation, the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, after ensuring the credibility of the news, its social nature and objectivity and that it was written in good faith.” The verdict also recognized that the Article was “edited and structured as a news story,” included sources and opinions by experts in Sharia, “which means that the role of the defendant was limited to reporting information for the sake of public interest, as stipulated by Article 15 of the Constitution.

⁴ Adopted by UN General Assembly resolution No. 217(d-3) on December 1948. <http://www.un.org/Overview/rights.html>

⁵ Adopted and presented for signing and ratification by UN General Assembly resolution No. 2200 on December 16 1966. Entered into force as of March 23, 1976. The ICCPR was published in Jordan’s Official Gazette on June 15, 2006 (issue N. 4764).

of law.⁶ Where not already provided for by existing legislative or other measures, each state party to the Covenant undertakes to take the necessary steps, in accordance with its constitutional processes and with the provisions of the present Covenant, to adopt such laws or other measures as may be necessary to give effect to the rights recognized in the present Covenant. According to Article 2 of the Covenant, being party to this Covenant shall be construed as a state's undertaking:

- To adopt legislation that guarantees rights provided for in this Covenant, and to amend existing legislations accordingly;
- To ensure that any person whose rights are violated by anyone acting in an official capacity shall have an effective remedy and that violators are prosecuted.

Article 19 of the ICCPR enshrines freedom of opinion and expression, providing that:

- *Everyone shall have the right to hold opinions without interference.*
- *Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.*
- *The exercise of the rights provided for in paragraph 2 of this Article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:*
- *For the protection of national security, public order, public health or morals.*
- *For respect of the rights or reputations of others.*

Moreover, Article 20 of the Covenant imposes two further restrictions on freedom of expression, prohibition of propagating war and incitement to hatred, stating that:

- *Any propaganda for war shall be prohibited by law;*
- *Any advocacy of national, racial or sectarian hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law.*

1.2.3. The Arab Charter on Human Rights

The Arab Charter on Human Rights was approved at the 2004 Arab Summit in Tunis. Jordan was the first Arab country to ratify this Charter⁷, which came into force in 2008, after being ratified by seven Arab countries.

Article 32 of the Charter states that:

"The present Charter guarantees the right to information and to freedom of opinion and expression, as well as the right to seek, receive and impart information and ideas through any medium, regardless of geographical boundaries.

⁶ However, Jordan did not ratify the ICCPR's First Supplementary Protocol, which allows individuals to file complaints before the UN Human Rights Council against signatory states for alleged violations of the rights stipulated in the Covenant. The ICCPR binds every state that is party thereto to respect rights recognized in the Covenant, and to enshrine said rights for all individuals subject to its jurisdiction.

⁷ This Convention was published in the Official Gazette twice: in issue No. 4658 on May 16, 2004 and in issue No. 4675 on September 16, 2004 due to errors in wording.

Such rights and freedoms shall be exercised in conformity with the fundamental values of society and shall be subject only to such limitations as are required to ensure respect for the rights or reputation of others or the protection of national security, public order and public health or morals.”

1.2.4. The Convention on the Rights of the Child

Jordan is also signatory to the Convention on the Rights of the Child. Article 13 of this Convention states that:

“The child shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of the child’s choice.

The exercise of this right may be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:

- *For respect of the rights or reputations of others; or*
- *For the protection of national security, public order, public health or morals.”*

1.2.5. The Euro-Mediterranean Association Agreement between Jordan and the European Union and its Member States⁸

The agreement, which entered into force in 2002, is a binding treaty. Article 2 of the Association Agreement states: *“Relations between the Parties, as well as all the provisions of the Agreement itself, shall be based on respect of democratic principles and fundamental human rights as set out in the Universal Declaration on Human Rights, which guides their internal and international policy and constitutes an essential element of this Agreement.”*

1.3 The switchover from analogue to digital television

An overview of the international media framework would not be complete without mentioning radio spectrum regulation. The International Telecommunications Union, the world’s oldest international agency, set June 2015 as the deadline for 116 African and Asian countries (including all Arab countries) to switch from analogue broadcasting to digital. Digital broadcasting in Jordan provides an opportunity for creating new television channels both at a national and at a regional or local level. In this context, it is essential that Jordan creates a licensing regime which ensures that the selection of these new services is transparent and based on a robust selection mechanism which ensures those who will best serve the interests of Jordanian citizens and of the country as a whole.

Recommendation: A spectrum plan should be established, making sure that through the use of the most efficient planning and distribution technologies, a number of new services, both public and private, can benefit from access to airwaves. When this is done, the licenses should be allocated following a transparent selection process, which will be set out later in the report.

Further recommendations to ensure a successful switchover from analogue to digital television will be

⁸ The Jordanian Parliament ratified the Association Agreement in 1999.

provided in Part V of this report.

Taken together, the facts that the Kingdom has enshrined in its statute all the key principles pertaining to freedom of expression and information and that there is a technical revolution enabling the creation of more broadcast services accessible to the whole population creates a fantastic window of opportunity to foster the development of a vibrant and independent media sector.

Part II: Principles and rules to follow to create a strong and independent media sector

2.1. Essential freedoms and respect of human rights

Freedom of expression and information is not in itself sufficient to ensure that media can help foster the democratic process. Access to information, including both access to government documents and right to travel, visit and report in all places is essential. Other relevant freedoms must be secured too, such as peaceful assembly, voluntary membership of organizations, the right to elect representatives so that there is a democratic debate that the media can report on and help develop. Whilst this report will focus on media regulation, it is important to bear in mind that media regulation cannot be seen in isolation. In particular, one might argue that there can be no free media in a country that does not abide by the rule of law.

2.2 The rule of law

The Secretary-General of the United Nations defines the rule of law as⁹:

“A principle of governance in which all persons, institutions and entities, public and private, including the State itself, are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated, and which are consistent with international human rights norms and standards. It requires, as well, measures to ensure adherence to the principles of supremacy of law, equality before the law, accountability to the law, fairness in the application of the law, separation of powers, participation in decision-making, legal certainty, avoidance of arbitrariness and procedural and legal transparency.”

Another definition of the rule of law can be useful in our context, promoted by the World Justice Project¹⁰, which is a non-profit organization committed to advancing the rule of law around the world, states that the rule of law refers to a rules-based system in which the following four universal principles are upheld:

- The government and its officials and agents are accountable under the law;
- The laws are clear, publicized, stable, fair, and protect fundamental rights, including the security of persons and property;
- The process by which the laws are enacted, administered, and enforced is accessible, fair, and efficient;
- Access to justice is provided by competent, independent, and ethical adjudicators, attorneys or representatives, and judicial officers who are of sufficient number, have adequate resources, and reflect the makeup of the communities they serve.

The preamble of the European Convention for the Protection of Human Rights and Fundamental Freedoms says "the governments of European countries which are like-minded and have a common heritage of political traditions, ideals, freedom and the rule of law".

⁹ [What is the Rule of Law?](#), United Nations Rule of Law.

¹⁰ See <http://worldjusticeproject.org/what-rule-law>.

2.3 The impact of the rule of law on media regulation

Considering the impact of the rule of law on media regulation, we can infer two key principles.

2.3.1 Clear and Accessible Legal Rules

Following the rule of law, the only enforceable legal rules must be those that have been adopted pursuant to systematic procedures, are clear as to their meaning, and are accessible to the public. As far as broadcasting laws are concerned, this has three consequences listed below.

The law must explicitly protect freedom of information and set out the limitations. As made very clear in international standards, freedom of information and expression is not absolute. Some restrictions are legitimate, provided they are necessary (a) for the protection of national security, public order, public health or morals or (b) for respect of the rights or reputations of others. These restrictions should be strictly proportionate to their objectives, and in any case be very clearly set out in laws, and, as appropriate, in decrees or regulations. Enforcement of these restrictions must itself follow another principle of the rule of law which is that, *“the process by which the laws are enacted, administered, and enforced is accessible, fair, and efficient”*.

The law must set the licensing regime to ensure that the scarce public resource (the spectrum) is used for the benefit of the whole public, including people with minority views or interests, and that available licenses are allocated in a transparent manner, following a set of criteria designed to maximize the diversity of broadcasting, both in terms of program content and media ownership. A pure auction process would be entirely inadequate.

Whilst the principles of this selection and the criteria used for selection should be in the law, and preferably established following a public consultation, their application and the selection itself must be left to an independent authority. This will ensure all risks – or perception of the risks – of political interference in the selection of licensees are alleviated, and that the selection is done on the merits of the applications.

2.3.2 The need for a broadcasting regulator

Ensuring the freedom of broadcasters, although key to the guarantee of freedom of expression, does not imply that the broadcast media should be left unregulated. A wholly unregulated broadcast sector would in fact be detrimental to free expression, since the radio spectrum used for broadcasting is a limited resource and the available bands must be distributed in a rational manner to avoid interference.

Being a scarce and public resource regulated by international treaties, radio spectrum must be managed by the State. The first sentence of the International Telecommunication Union (ITU) constitution fully recognizes *“the sovereign right of each State to regulate its telecommunication”*. Effective spectrum management requires regulation at national, regional and global levels. It is their responsibility under international regulations to determine a national spectrum plan where appropriate bands are assigned to specific uses (for instance, defense, telecommunications, aeronautic, scientific and of course,

broadcasting). This principle is without prejudice of the fact that some spectrum bands can be left unregulated when there is no risk of damaging interference.

Once a country has established its national spectrum plan, and has decided which spectrum will be reserved for broadcasting, in compliance with ITU rules, it must then ensure that broadcasting spectrum is used in a way that maximizes public benefits.

There are two steps to ensure this happens:

1. A detailed spectrum plan must determine how best to use the capacity available for broadcasting, across the countries, ensuring there is a mix of national and regional/local services. In any case, the move to digital television requires a complete reworking of this plan, and this will enable spectrum planners to determine how many broadcasting licenses can be made available.
2. The second step is then to decide who is going to be allowed to use these licenses. This cannot be done by the State but must be left to an independent regulator, who will be empowered to select applicants following a transparent process and a set of rules established by law.

2.4 The constitution, role and responsibilities of an independent regulator

It might be useful to refer to a (non-binding) recommendation of The Organization for Economic Cooperation and Development (OECD), which sets out best practice principles on the governance of regulators. The 2012 *Recommendation of the Council on Regulatory Policy and Governance*¹¹ recognizes that an effective regulatory policy includes “a consistent policy covering the role of functions of regulatory agencies in order to provide greater confidence that regulatory decisions are made on an objective, impartial and consistent basis, without conflict of interest, bias or improper influence.” They have set out seven principles of governance, which legislators should keep in mind when establishing a regulator:

Role clarity: an effective regulator must have a well-defined mission, clear objectives, set out by law, with clear and linked functions and the mechanisms to co-ordinate with other relevant bodies to achieve the desired regulatory outcomes. This clear mission will ensure that regulators only intervene when necessary, and that their intervention is appropriate and proportionate to the issue they are dealing with.

Preventing undue influence and maintaining trust: This requires not only that an independent regulator is established but also that a series of measures are taken to prevent undue interference, in particular from political or economic interests, and to ensure decisions made are justified, predictable and can be subject to judiciary challenge. Proposals should be published and all those affected consulted before decisions are taken. Regulators should clearly explain how and why final decisions have been reached.

Decision-making and governing body structure for independent regulators: Members of regulatory authorities should be appointment on merits, on the basis of their professional skills, experience in the field and reputation. To ensure their independence, they should not have any conflict of interests; their

¹¹ See http://www.keepeek.com/Digital-Asset-Management/oecd/governance/the-governance-of-regulators_9789264209015-en#.

mandate should be for a fixed term, preferably non-renewable. It is essential that the regulator benefits from adequate and secure means and resources (financial, human, technical, monitoring and enforcement powers) ,which should not be subject to political interference.

Accountability and transparency: Because they are independent, regulators must be accountable (a) to the government and parliament, (b) to the industry they regulated and (c) to the general public. This decision making process must be transparent. Regulations should be clear and simple. Decisions should be predictable in order to give stability and certainty to those being regulated. There should be well-publicized, accessible, fair and effective complaints and appeals procedures. Regulators and enforcers should establish clear standards and criteria against which they can be judged.

Engagement: It is essential that regulators have a good knowledge of the industry they regulate, and have open and transparent ways of consulting their stakeholders so that they decisions are well informed. This should be done in a way that prevents conflicts of interests. Effective consultation must take place before proposals are developed, to ensure that stakeholders' views and expertise are taken into account. Stakeholders should be given at least 12 weeks, and sufficient information, to respond to consultation documents.

Funding: Funding should be adequate to enable the regular to fulfill its duties. Funding process should be as transparent as possible, not be linked to the money they perceive from licensees. The budget should be established in a transparent manner, involving for instance, a multi-party committee of Parliament. It should be secure and not subject to "political" cuts during the funding period.

Performance evaluation: As all public authorities, the regulator's performance should be evaluated on the basis of key performance indicators agreed in advance for instance at the time of the budgetary discussion. Regulations should be systematically reviewed to test whether they are still necessary and effective. If not, they should be modified or eliminated.

In addition it is also useful for legislators to bear in mind the key principles which regulator themselves should apply when devising, implementing, enforcing and reviewing regulations.

Part III: The licensing regime

3.1 Why should broadcasters be licensed?

Broadcasting is the most pervasive, powerful means of communication in the world. It provides news, education and entertainment and occupies several hours of life for most individuals. Its potential power and influence on individuals is such that governments have tried to control it, and economic interests to use its impact to promote their products with consumers. Licenses have been required to ensure some form of control over the content provided by private operators. In addition, since terrestrial broadcasting use a very scarce and valuable public resource -radio spectrum- it is legitimate to ensure the most efficient use through regulation, usually through the granting of licenses.

In a democratic country, this regulation can aim both at preventing some harmful content to be distributed to the public (negative obligations) and at ensuring some content is produced and made available to the public (positive obligations), in particular this refers to information, educative and cultural content. Broadcasting can be used to inform and foster democratic debate, protect and promote national culture, inform and educate citizens, develop an economic sector, and strengthen national cohesion. Of course it is also there to provide entertainment.

These positive obligations, but also to a lesser extent negative ones, are not all absolute, and they can vary depending on countries. This means there is no unique model, but a few essential principles, and a number of rules that can be modulated according to the situation of each country.

3.2 Essential principles to set up a licensing regime compliant with international standards and best practice

3.2.1 *Legal basis*

Since the licensing system is an infringement on freedom of information and expression, it is essential (see Part II C above) that the basic conditions and criteria governing the granting and renewal of broadcasting licenses should be clearly defined in the law. Any more detailed regulations or codes governing the broadcasting licensing procedure or the standards to apply should be drafted after consultation with the stakeholders, written in a clear and precise manner. They should be published and applied in an open, transparent and impartial manner, by an independent regulator.

Decisions made by the regulator should be able to be appealed to a court of law.

3.2.2 *Clear and fair licensing process*

The regulator should publish its intention of awarding licenses, the information needed from the applicants, a model of the application it expects to receive, the selection process it will follow, and the key criteria it will apply to select the winners.

It is good practice to publish a draft for consultation as well as the selection process and a model of the

application.

The selection should be fair and transparent. The regulator should publish a list of all applications received and those that are considered as compliant. License applications rejected as non-compliant will be those that do not provide all the information required or where the applicant is disqualified under the law or bylaws.

The regulator may call all compliant applicants for a hearing or a second-stage selection. The final decision should be made in full independence by the commission. It should be published and the bidders not selected will receive a letter setting out why they have not been chosen, which should be published with their consent.

3.2.3 Different types of licenses for different services

It is standard practice to have several different types of licenses, according to (a) the distribution mechanism and (b) the funding model. Some positive obligations (e.g. duty to spend a certain percentage of their budget on original content created in the country) will only apply to some types of licenses, whilst negative obligations (interdiction to broadcast harmful material) will apply to all.

Licenses for services using the terrestrial spectrum will have the highest positive obligations, and/or be subject to the highest fees, as they use a scarce public resource. It is possible for regulators to agree to waive the fees in exchange for meeting a certain level of public service obligations, when this is done in a transparent manner.

Fees should be set following objective criteria, such as area and population covered, and/or turnover. Public service broadcasters and third tier (community) broadcasters, which do not make any profit, should be subject to significantly lower fees (or even no fees at all when they do not take any paid-for advertising and sponsorship).

Amongst this group there could be subcategories:

- Commercial/public sector/third (not-for profit) sector
- Local/regional/national
- Generalist/specialist (for instance the license for a service providing only music will not need to contain provisions on news accuracy, etc.)
- Satellite and cable licenses will typically have lower positive obligations.
- For services available on the internet, there is a difference to make between:
 - Linear services which are television or radio services providing audiovisual works simultaneously to an indefinite audience, which happen to be distributed over the internet where a license, with minimal obligations, could be required, as they are by nature broadcasting services, and;
 - Websites which carry audiovisual content, which do not need a license but may be requested by law to make available information on how to contact them and how to make a complaint or comments regarding their content.

When the same service is rebroadcast/simulcast on different platforms, only one license should be required, provided it is the one that carries the most obligations. There should not be additional fees.

3.3 Key license conditions

In order to be effective a license should contain a number of essential conditions.

3.3.1 *Conditions related to the license itself*

License term: The license must set out the date by which the service should commence broadcasting, and for how long the license will be in force. Sufficient time should be allowed between the award and the commencement of the license in the case of a new service.

License renewal: If there is an automatic presumption that the license will be renewed at the end of the term, this should be set out in the license. In order to establish a sound business base for the sector, it is reasonable to assume that licenses will be renewed, subject to satisfactory compliance with license conditions and content requirements.

However, whilst this is entirely appropriate for satellite licenses, when it comes to terrestrial licenses, the question is worth a debate. There is a balance to be made between the need to enable new entrants to come, and make the best use of the scarce resource in the public interest on the one hand and the need to ensure flourishing businesses can continue on the other hand. In that case, for instance, the regulator can consult, sufficiently in advance, with the public stakeholder and the licensee itself on appropriate amendments to ensure the public interest is well served, for instance new obligations, or decrease in other obligations less important in the light of the media landscape at the time of renewal.

This consultation must happen sufficiently early before the end of the current license term to consider an incumbent's position so that, if the license is to be re-advertised, sufficient time is available to run a full license application process. Six to 12 months is appropriate.

Amendments to licenses: Licenses should also set out the terms upon which licenses may be amended, making the distinction between adjustments, or those required by changes in the law and more substantial ones which need to be properly consulted on and should not change the substantial elements of the license.

3.3.2 *Conditions related to relationship with regulatory authorities*

Compliance with legal requirements, including secondary legislation: Broadcasters will be obliged to meet certain content standards in their advertising and programming, as per the law, that is broadcasting law, but also any other relevant laws, in particular on privacy, defamation, protection of consumers, intellectual property rights. Of course, not all the detailed standards can be set by law. The principles should be in the law (for instance fairness and accuracy of the news), more detailed information could be

set in the bylaws (for instance the mechanism to ensure this is enforced) or on codes issued by the regulator or licenses (for instance prohibition of using modified images).

The license should therefore provide that broadcasters are obliged to meet the terms of the law of any relevant secondary legislation and any codes issued by the regulator, under the law and bylaws. This could be repeated with more or less detail in the license.

License fees: Fees can be requested for the application process, the award of a new license and annual regulatory costs. All these fees should be set at the appropriate level to cover the cost of reviewing applications, preparing a license and implementing regulation. The principle of charging for the application and award fees will be set in the law, but the actual level should be decided by the regulator.

Annual fees should be provided for in the license, with sufficient flexibility to be able to vary the fees depending on the costs of regulation, inflation, etc. They can vary for different types of licenses (usually more expensive for television than radio). Their non-payment should lead to the revocation of the license.

These “administrative” fees are without prejudice of other fees and taxes which licenses could be requested to pay, whether for access to the spectrum, or as a tax on corporate benefits.

As far as spectrum access, it is acceptable and arguably preferable to waive the payment of a spectrum charge in exchange for content obligations, spend on production in the country, as will be determined in the license.

Information requirement: The license should set out the data and information the regulator will receive on a regular basis, or be able to require, from broadcasters, for instance financial accounts, information on program costs, contracts with producers. The license will clarify what needs to be kept confidential at the licensee’s request and what can be published.

The license should also set which specific data needs to be provided immediately (for instance proposed significant changes in ownership or management structure, interests taken with other media companies, changes of offices, etc.).

The license should also set out rules as to the recording, keeping, and providing to the regulator at its request, of all programs broadcast for 6 months, under Article 21-C of the Audiovisual Law. This enables the regulator to meet its monitoring duties.

Sanctions: The license should set out what sanctions the regulator can apply for noncompliance with the conditions, in accordance with the law. The range of sanctions includes fines, suspension, and shortening or revoking a license. Sanctions must be fair, proportionate, pronounced after discussion with the licensee and consideration of remedies it commits to undertake. The decision setting out a sanction must clearly set out the reasons for the sanction and the routes of appeal.

The license must also enable the regulator to require the licensee to broadcast an apology or correction,

when appropriate (for instance when inaccurate information has been broadcast).

3.3.3 Technical conditions

Coverage and reception area: These differ as people can be within the theoretical coverage but not be able to receive the service because the broadcaster does not use sufficient transmitter sites or power. This will include the number and location of the transmitter sites used, technical characteristics such as power, antenna types and direction, etc.

Technical specifications:

- For the type of broadcasting (analogue/digital);
- For picture and sound quality (including level of sound during advertising screens).

3.3.4 Conditions pertaining to the content of the licensed service

The license should require the licensee to provide the service as described either as in the advertisement or tender, or as promised in the application. There are a number of minimal conditions, and further optional conditions.

3.3.4.1. Positive obligations

One of the roles of the regulator is to ensure that taken together all the services broadcast in the country cater for the interests of everyone and all. Depending on the media landscape, the regulator may determine that there is a specific need for, for example, television services providing content for children, religious programs, general and local news, or radios offering sports information, or promoting new national talents. This could be provided by the public service or not in a sufficient manner. Even so it could be appropriate to have a plurality of offers in the matter.

When advertising licenses, the regulator should set out which are these specific areas of interest, and what they expect as a minimum offer. These will be key criteria for the selection of applicants. It could also determine that there is a need for services covering specific areas or communities, which are not well serviced by nation-wide or generalist services. It will reserve frequencies for such services and could provide for lower license obligations and lower fees, enabling such services to be sustainable.

Whilst there should be minimum requirements in all licenses for programs for people with hearing or sight impairments, the regulator may also want to promote higher quotas.

The commitments taken at the application stage should be clearly set out in the license, as a key condition to be met throughout the course of the license.

National production quotas: It is quite usual to set minimum quotas of programs which must be produced in the country, as well as (depending on the market) quotas made by independent producers. Quotas for content produced in the country should be at least at 15% in value and in time, but commitments to comply with higher quotas could be used as a selection criterion. As this may not be possible in Jordan immediately, it could be agreed to get gradually to this level over several years, in

order to allow the market to develop. Quotas for content made by producers independent from a broadcasting company may also be set, first at a low level, to encourage the development of a production sector working for Jordan as well as non Jordanian markets.

Cultural programing: There could also be minimum requirements for promoting national and local cultural events, new artists or folkloric music.

Obligations for news to be at least accurate or accurate and impartial: Standards of good journalism require news to be accurate, and their sources to be verified.

There is a choice whether to accept some degree of editorial or political bias for some licensees or to request impartiality from all. For instance, some countries enable political parties to run television or radio services; in that case they accept politically biased, “partial” content, although they request accuracy of the information provided. In any case, when this is allowed, viewers should be clearly told that they watching a politically biased service, and not an impartial one. The requirements around accuracy and clear labeling of such content should also apply to political advertising or political programs when they are allowed by law. In other countries, political parties are not allowed to hold or control television or radio licenses and cannot pay for advertising on TV and radio.

In any case, political parties should be allowed to have access to airtime, in conditions set by the law and under the regulator’s control, during electoral campaigns.

Rules preventing discrimination: In any case, there should be rules ensuring that programs do not broadcast material - including the views of interviewees or program guests - which discriminate against people, for example on the grounds of race, nationality, religion or sex.

Special rules on religious broadcasting or programs; if religious services are authorized, or in any case for religious programs carried on a licensed service, specific rules may be applied to ensure that due respect is given to all religious beliefs, and that religious intolerance is not provoked. It should be the same where political parties are allowed to provide programs.

Promotion of new technology: When the country is moving from analogue to digital it is also possible for the licensees to be requested to support the move, from instance by giving information and advice to their audience.

3.3.4.2 Negative obligations

Advertising, sponsorship and product placement: Licenses may contain limits on the amount of advertising available on broadcast services, as well as rules setting out the number and size of advertising breaks within programs, and rules on the scheduling of advertising. A maximum of 12 or 15 minutes per hour seems appropriate to ensure there is sufficient time for programs.

There should also be guidelines and rules regarding sponsorship and product placement, aiming at ensuring that audience can always know that a program is promoting a product. There can be stricter

rules to protect children, for instance preventing hosts of children’s programs to appear on advertisements, especially when they are aimed at children.

When the law provides that advertising for some products or services (tobacco, medicine, alcohol, political parties, gambling, etc.) is forbidden on television and radio, this should be clearly repeated in the license.

Protection of children: Children should be protected from content that may be harmful to them. Such content should not be made available at times they are likely to be watching television. Since children of different ages will have different needs, it is appropriate for the regulator to work with the stakeholders and education bodies to provide guidance on onscreen symbols that can be used by all licensees and be easily recognized by children and their parents.

3.3.4.3. Ownership and Plurality

Ownership rules: It is important for a country to ensure it has knowledge, and some form of control of the identity of owners and shareholders of companies providing broadcast services in its territory. This should not be used to prevent free expression but rather to ensure that it is able to enforce laws and standards.

Ownership rules could cover the following elements:

- Need to be a legal entity;
- Need for the entity to be incorporated in the country;
- Need for the license holders, the directors of the company, and key members of staff to be citizens of the country;
- Need for the license holders, the directors of the company and key members of staff to be free of criminal record (for most serious offenses, with some time limitations);
- Prohibition of having more than a certain percentage of shares held by foreigners or percentage of the income from foreign sources.

Pluralism: Plurality of media ownership is important to safeguard diversity and ensure there is a sufficient range of sources of news, information and opinion. In order to promote and protect pluralism, some restrictions are usually enforced:

- Restrictions on political parties, syndicates, religious organizations, local authorities to hold a license (rules will be different for terrestrial licenses, and satellite licenses which are not limited in number);
- Restrictions on the ability to hold, control, or have significant shares in more than one terrestrial license service, or in more than one service providing general news and information;
- “Cross-media” restrictions: to ensure the same individuals or companies do not control too big a share of the means of information in the country or a specific area;
- “Competition-enabling” restrictions, preventing for instance a major advertiser (for example, supermarket chains) to hold a terrestrial license if there is a risk that they would unfairly restrict its competitor’s access to advertising screens (although rules on advertising could also prevent this from happening);

- Vertical integration, for instance if a license holder controls the only or main provider for terrestrial transmission services, or a significant share of the production market (again this could alternatively be remedied by appropriate undertakings in terms of access to these markets).

3.3.5 *Relations with audiences*

Free to air or subscription/encrypted service: This substantive characteristic of the service should be set out in the license with no ability to move from one to another without a new license application process.

Complaints: The license should contain conditions as to how comments and complaints from the public will be dealt with. A report on the matter should be sent on an annual basis to the regulator so that the regulator can advise the licensee as well as all licensees of common issues and best practice.

These conditions should be set in compliance with any code and recommendations made by the Complaints Committee of the Media Commission established under Article 4-J of the Audiovisual law.

3.3.6 *Right to reply and rules on fairness*

The license will set out the conditions in which the license holder will respond to any person or organization that claims to have been treated unfairly in a program. It will also set out the conditions under which, when the claim is upheld, by the licensee itself, or by the regulator, the victim will be required to offer a prompt right of reply, and in some cases, an apology.

3.4 Licensing digital terrestrial television

Licensing digital terrestrial requires two separate processes:

1. Licensing the multiplex¹² operator—it will get a spectrum license for the frequency used, but will also need a license from the Media Commission to regulated the services carried on it;
2. Licensing the services that go on the multiplexes. These are standard television (or radio, as DTT can carry radio stations too) licenses, with the exception that they do not require their own spectrum license so will have no relation with the spectrum regulator. All technical transmission matters should be dealt with by the multiplex licensee.

The law should determine whether the multiplex operator, once licensed, will choose itself how many and which services it carries (as per the UK law) or if the regulator will determine itself how many and which services it carries (as per the French law). In either case, provisions should set out how the selection will be done. See Part V for more information).

¹² A multiplex is an error-protected bitstream of 24, 27 or 40 megabits per second, which can be used for almost any combination of digitally-encoded video, audio and data. It enables a number of services (between 7-10 Standard definition to 4-6 High definition television channels) to use the same bandwidth (8MHz) as a single analogue channel.

3.5. Definition and promotion of “third tier” community media

Whether it is called associative, participative, non-for-profit, community or third tier, the idea that there is room for a specific form of media, beyond the mainstream public and commercial sector, is long established around the world. For the purposes of this paper, we will call it “community” broadcasting, while recognizing it does not need to serve a specific community at all, whether geographic or interest-based.

More important is the fact that this type of media has a social or public interest purpose and incentivizes citizens to participate in its programs and its administration, is not controlled by bodies which would either be able to hold, or are holding neither a public service nor a commercial license, receives limited funding from economic or political undertakings that would compromise its independence and is established as a non-for profit entity. In addition, depending on the availability of spectrum it is possible to prevent the same association/organization from holding more than one national license, more than one local license in the same area, or several licenses covering more than a certain percentage of the population.

In summary, the definition of this third sector of media should cover (cumulative) the following criteria:

- Social Purpose and objectives;
- Participative management;
- Participative and open programming (although the license holder must keep at all times editorial control of what is broadcast);
- Aim to make a difference to the population they serve;
- Guarantees of independence;
 - Through ownership and control
 - Through transparent funding
 - Through thresholds on the share of finding which can come from either government or economic entities, or advertising
- Compliance with all laws, bylaws and instructions;
- Distinctiveness, in particular from both commercial and public service;
- Specific rules on control and ownership should also apply (e.g. no more than one license in the same area, maximum number of licenses in total, maximum share of the population reached, etc.).

Whilst it can serve specific interests it should do so in a way that favors dialogue between all communities, does not exclude anyone and is fully compliant with international standards on freedom of information and freedom of expression.

3.5.1 *Example of France*

In France the concept emerged at the end of the 1970s with the so-called “radio pirates” or “radio libres” (depending on whether you were a government official or anyone else). It was officially recognized and supported from 1986 when the Audiovisual law created the “Fonds de Soutien à l’Expression

Radiophonique” (Radio Expression Support Fund - FSER). This fund, which gets its money from a special tax levied on radio and television advertising expenditures and paid by advertisers, is used to support the activities of non-commercial radios, so-called “category A”.

Selection and licensing of “radios associatives (Class A)”

This categorization aims to guarantee the diversity and balance of radio in each region and guides the work of the **French regulator, the Conseil supérieur de l’audiovisuel, CSA**, which also has a mission to guarantee that truly local/regional stations are available.

The steps involved in the licensing process are as follows:

- Every five years the CSA publishes a list of areas and categories of licenses available and invites applications;
- Applications are considered by Comités Techniques Radiophoniques (Broadcast Technical Committees) in a regional pre-selection process; and
- The CSA examines the applications in detail and awards licenses for a maximum of five years. These licenses may be renewed for two additional five-year periods.

Supporting fund

Established in the mid-1990s, the Fund had a budget of £29m euros in 2015. Qualified stations can receive between USD 5,000 and USD 150,000 annually. Qualified stations, which are granted a “category A” license by the French regulator can receive between USD 5,000 and USD 150,000 annually. The actual amount received depends upon a number of criteria, including the previous year’s budget, the amount of funds secured from other sources (stations that receive local funds can receive more from the FSER), the quality of their programming, and the purpose of the funds (new radio stations can receive more to help fund settling up and equipment costs).

In return for accessing the funds, the stations must agree to limit advertising revenue to no more than 20 per cent of their total annual turnover. They must also broadcast at least four hours of local programming daily between 06:00 and 22:00.

Similar systems exist in Belgium Denmark, Netherlands, Argentina, South Africa, Australia, and Ireland.

3.5.2 Example of UK

The UK joined the list of countries supporting community media, rather late, in 2003. Ofcom (UK media regulator) awards community radio licenses to small-scale, not-for-profit radio stations operated for the good of members of the public, or of particular communities, and in order to deliver social gain.

The license application should therefore identify their target audience but also the expected social gain, for instance training young people not only to radio broadcasting and newsgathering but also to manage a business, schedule programs etc.

These licensees can also apply to the community radio fund. Set up under section 359 of the Communications Act 2003, and funded by Government (around £500,000 per annum), the Community

Radio Fund is managed by a Panel (of at least three members, the Chair appointed by Ofcom's Board, one nominated appointed by the Community Media Association, which will be invited to nominate a member of the Panel and an Ofcom representative (who may be an executive colleague or a part-time member of an Ofcom Board, Committee or Panel).

The Fund has been established to give grants to help fund the core costs of running community radio stations. These not-for-profit radio stations have a social purpose, and work to involve their target community in running the service. While some of the activities undertaken by a station, such as training, may attract funding more easily than other types of activity, it is recognized that the essential core work involved in running a station is the most difficult for which to find funding.

The Community Radio Fund has therefore been set up to provide help for these core functions, which include:

- Fundraising to support the station (e.g. grants, commercial funding) management;
- Administration;
- Financial management & reporting;
- Community outreach;
- Volunteer organization and support.

3.5.3. Which distribution platform?

Whilst community radios have been very successful, community television has had many more difficulties. Except where there are local cable networks that can distribute these services for free, or against a small fee, often as part of their contract with the local authorities granting the cable network authorizations, community televisions have not been successful. This is mainly due to the high costs and specialist skills required to run a successful terrestrial television channel, which go much beyond the requirements for a local radio service. Actually, the best platform to distribute local television service is the internet, but that presupposes universal access to broadband internet.

3.5.4. How could Jordan promote community/associative radio?

There are already some successful non-for profit radio stations in Jordan. There is space on the FM band to award more licenses. Whilst it might not be easy for the government to set up a fund, in a difficult economic context, there could however be ways of supporting the development of community media.

Community radios that do not take advertising are exempted from the Media Commission license fee. They can also request a rebate (up to 50%) on the TRC fee, which at 15000 JD a year can be prohibitive. This rebate is however not automatic. It is proposed by the TRC for approval by the Ministry.

3.5.5. Recommendations

To set up a specific, much lower fee (still based on coverage) for radios which are licensed by the MC as community services. This fee should not be set above a strict cost-recovery level.

In addition, it might be possible to create a small tax, e.g. 0.2 to 0.5%, on the advertising income of all the other audio-visual licensees, to set up a fund for those community radios, which do not receive any advertising income.

Despite reservations expressed above it would not be impossible to set up small local television services, broadcasting a few hours (2-4) per day, on digital terrestrial multiplexes, as this could be another incentive for consumers to buy the digital terrestrial television equipment (aerial and set top box) (See recommendations on digital switchover in Part V).

These stations would play a major role in helping with the decentralization strategy the Jordanian government is implementing, by ensuring there is a network of local medias covering local events and helping citizens to make the best of the opportunities offered in their region.

Appendix 1 to Part III: Example Framework setting the conditions and general rules for the award and operation of a community radio service

Chapter I: General provisions

Article 1

This framework is intended to establish the conditions and the general rules for being granted a license to establish and operate a national or local community radio service in Jordan.

Article 2

The granting of a license to establish and operate a national or local community radio service in Jordan, is subject to the legislation in force, the general conditions and rules laid down by this framework and the specific terms and conditions related thereto, which will be subject to a license agreement that will be concluded between the Jordanian Media Commission (MC) on the one hand and the holder of the license, on the other hand

Article 3

The provisions of this framework and the license agreement under Section 2 above, constitute a single document setting out the rights and duties of parties.

Chapter II: Application for the grant of a license

Article 4

The organization applying to the granting of a license to establish and operate a national or local community radio service in Jordan must be created under Jordanian law, and its legal representative applying to hold the license of Jordanian nationality. They must provide to the MC an application including the following documents:

- *an application signed by the legal representative of the association created or being created for the establishment and operation a national or local community radio service;*
- *a copy of the articles or draft Articles of Association dated and signed by the legal representative or the founders of the association;*
- *for a new association, the financial plan and budget estimates for the next two years; and for an existing association, the financial plan and budget estimates for the next two years as well as the financial statements of the previous three years, or since the constitution of the association, whichever is earlier. These statements should distinguish revenue from advertising, subscription, sponsorship, public subsidies, donations as well as from interactive services;*
- *the identity of members of the board or executive direction, specifying their duties, their*

names, dates and places of birth, number of national identity cards, and professions including extracts of their criminal records;

- *a detailed note specifying the links of the association and its members with other associations and stakeholders operating in the media, information, communications, advertising or press sector*
- *a bank statement or post proof of the existence of an account in the name of the association in a bank established in Jordan;*
- *the commitment to employ Jordanian or Jordan-long term residents professional journalists, in line with the radio project presented. The number of journalists will be set by the license agreement.*

Article 5

The application, as provided for in Article 4 of this framework, must contain description of the content of the service and key programming features, as well as details about the area served by the service and its transmission sites. It must also include the technical features of the broadcast stations that the applicant organization intends to use, namely the type and characteristics of the transmitter and antenna including its orientation, its gain, its directional diagram and details of its composition (the number of dipoles or number and type of elements, the type and length of the cable, the type of any equipment inserted between the transmitter and the antenna).

If the licensee is permitted, several frequencies and conducts programs of at least six (6) hours to some specific authorized geographic areas, indicating for each site, the conditions of these stalls, duration, content of each issue, including music. He joined the license agreement grid specifying the insertion of these specific programs.

Chapter III: the granting of the license

Article 6

The granting of a license to establish and operate a community radio service is subject to a license agreement, as provided for in Article 2 of this framework.

Article 7

It may be granted only one license for the establishment and creation and operation of a community radio service to the same association. The association holding the license and its leaders can also have control of an advertising company or a radio channel or Private TV or measurement company and audience surveys, or hold more than five percent (5%) share in more than one company operating a radio channel or private television.

Article 8

No person shall be a director of more than one association holding a license for the establishment and creation and operation of an community radio service.

Article 9

A license for the establishment and creation and operation of a community radio service is granted for a period of five (5) years from the date of signing of the agreement provided for in Articles 2 and 6 of this framework. It is not transferable without prior authorization of the MC.

Article 10

The license is automatically renewed, unless legal provisions prevent it, and subject to modifications of its provisions which the MC may reasonable for objective reasons, such as as changes in legislation and the media landscape

Chapter IV: Licensee's obligations

Section I: General obligations

Article 11

The legal representative of the association holding the license or his/her delegate duly designated for this purpose is solely responsible for the program broadcast, whatever the conditions of its production.

This program will comply with the following principles:

- *Respect for international conventions and covenants on human rights and public freedoms,*
- *Freedom of expression*
- *Equality*
- *Pluralism of ideas and opinions,*
- *Objectivity and transparency.*

These principles are carried out in compliance with the following rules:

- *Respect for individual dignity and privacy*
- *Respect for freedom of opinions and beliefs,*
- *Protection of children and young people*
- *Protection of security and public order,*
- *Protection of public health,*
- *Promotion of national culture and national audiovisual production.*

Section II: Ethical obligations

Article 12

The licensee ensures the service complies with the general principles of freedom of expression and communication and editorial independence, and the principles set forth in this framework.

Article 13

The licensee must ensure the integrity and impartiality of information, pluralism of ideas and opinions, especially in news programs. It undertakes to comply with the recommendations of the public authorities in general and those of the MC during election periods. It also undertakes to preserve the independence and impartiality of the service vis a vis any political party.

Article 14

The licensee ensures its programs cater for the needs and interests of the public in its political, ethnic, cultural and religious diversity. It is committed to ensure nothing is broadcast which is contrary to law or to the public interest, or contains incitement to discrimination, hatred or violence, especially on racial grounds, ethnicity, sex, religion, customs, national, regional or local origin or opinion.

Article 15

The licensee undertakes to ensure no program affects the dignity of the human person. It must respect the rights relating to privacy, honor and reputation, as defined by international conventions, laws and regulations. It shall in particular:

- *ensure that it is actually holding robust evidence before disseminating evidence that might humiliate individuals;*
- *not to incentivise discriminatory or exclusion behaviours spirit of exclusion, nor encourage defamatory insults against individuals; -*
- *to avoid complacency in the evocation of human suffering and exploitation of that suffering for promotional and advertising purposes, and any degrading treatment or lowering the individual to an object;*
- *ensure that the testimony of persons on facts in their privacy is collected with their informed consent and respect for their dignity and moral values of Jordanian society;*
- *ensure that non-professional participating in debates, interactive broadcasts, to games or entertainment programs are not required to waive, irrevocably or for an indefinite period, their fundamental rights, including the right to privacy of privacy and the right to appeal in case of injury;*
- *ensure the exercise of the right of reply in accordance with the legislation in force, and the conditions of its license.*

Section III: Obligations as regards programs

Article 16

The licensee undertakes to carry out the service under the technical specifications it agreed, and

which are annexed to the Convention under Articles 2 and 6 of this framework.

It gives to its audiences, on air, in the most accurate way possible, the characteristics of its programming, emissions and their duration.

The licensee commits to contribute to the production and distribution of Jordanian works and cultural productions, in particular relevant to a specific area, age group, gender, community, or specific interests.

The licensee must first seek the agreement of the MC prior to any significant changes in the characteristics and composition of the program. This agreement may only be refused if the MC considers that the proposed changes are likely to significantly change the nature or the financial equilibrium of the service or to reduce the interest of the service to the broadcast area. In this case, the MC suggests to the licensee alternative changes to the project it finds appropriate. If the licensee does not accept this proposal, he must either continue the operation of the radio service as per its existing license conditions or end its exploitation, in which case, the license will be revoked.

Article 17

The programs are broadcast in Arabic, or with Arabic subtitles as specified in the license agreement, and per the codes issued by the regulator in the matter. At the reasoned request of the association holder of the license, the MC may authorize it to distribute all or part of its program in other languages, particularly in view of the public interest of its broadcast area. The licensee agrees to comply with the proper use of the language or languages authorized.

Article 18

The licensee is required to ensure the promotion of culture, including the presentation, free of charge, the main cultural and socio-cultural in the area served by its program, with the exception of those which are of an advertising or purely commercial nature.

It is committed to promoting the works of Jordanian creators and in particular those of individuals, whether they are of Jordanian citizenship or not who live in his coverage area.

The license will contain practical arrangements for the application of this provision as will have been mentioned in its application for the award of this license, and approved by the MC.

Article 19

The license holder ensures that the news and current affairs programs it broadcasts meet the following requirements:

- *the information is objectively provided and treatment is governed by internal rules on objectivity in the handling of information; these internal rules will be compliant with the*

- law and any code established by the MC;*
- *the information is provided by professional journalists, or adequately trained journalists, in a sufficient number relative to the needs of the service and in accordance with the commitments made in its application and the license agreement.*

Article 20

The licensee agrees to comply with the following terms regarding advertisements:

- *It ensures that advertisements are clearly announced and identified as such. To this end, all advertising sequences are preceded and closed by sounds and announcements easily identified by the auditors.*
- *When they are sponsored by a third party, emissions must not encourage the purchase or rental of the products or services from this party. All sponsored programmes must be clearly identified and closed by sounds and announcements easily identified by the auditors.*
- *Advertising and sponsorship programs must comply with laws and regulations governing advertising and sponsorship.*
- *The maximum time devoted to advertising is **eight (8) minutes per hour on average, but may not exceed ten (10) minutes¹³** in any given hour.*
- *News, current affairs and religious programs may not be interrupted by commercial breaks.*

The licensee agrees to published its ratecard for advertising spots, apply it in a fair and non-discriminatory way to all advertisers, and maintain it without changes for at the three (3) months from the date of posting, except under exceptional circumstances and with the consent of the MC.

*The licensee agrees not to sell to a single advertiser more than **thirty percent (30%)** of advertising space. It also undertakes not to enter into exclusive agreement for a given product or service.*

The licensee agrees not to disseminate propaganda and advertising messages on behalf of a person, a political party or of a foreign state.

It is required to distribute free and immediate general interest releases to announce dangers to health, personal security and public safety, as will be requested by the MC at the request of the Ministry.

Article 21

The licensee agrees to comply with applicable technical standards and facilitate the monitoring of compliance with these standards by the services authorized for that purpose.

It ensures that the technical maintenance of all radio facilities is undertaken by at least one qualified technician. A qualified technician will be able to be contacted in permanence during the

¹³ Lower than for a private non associative/community service)

broadcast hours; its identity and the means of contacting him will be made available to the MC and the control services.

Article 22

The licensee agrees to complete the necessary formalities with the competent authorities on frequencies and broadcasting, for the use of frequencies necessary for the operation transmission and distribution of the radio station.

It undertakes to comply with the tax laws and pay the fees due to the aforementioned organizations.

Section IV: Obligations concerning financial transparency

Article 23

The licensee undertakes to guarantee financial transparency in the financing. To this end, it provides to the MC updated documents indicated in points 3 to 5 of Article 4 of this framework. The MC may require the submission of any other document or information useful to the financial transparency of the relevant association. Any modification of the data relative to ownership, control or directorship must be notified within eight (8) days following such amendment, so as to allow the MC to take all necessary measures under the legislation and regulations.

Chapter V: Relations with auditors

Article 24

The licensee provides to listeners a mailing address and a website to leave comments, observations, complaints and complaints about programs. It is committed to respond to them under appropriate conditions approved by the MC.

Article 25

The persons involved in a program are informed, to the extent possible, of the title and subject of the program for which their involvement is requested.

Article 26

Unless a person participating in a program has given express agreement to reveal his identity and speak about his personal life, it is forbidden to give indications could identify that person, including the name, address, phone number, a characteristic sign, or disclosing personal items that could make him identifiable. The host of the relevant program also ensures that the comments are not likely to make possible the identification of third parties, except for the mention of personalities involved in public life,

which is authorized, subject to regulation in force.

Members of the public requested to participate in a program must be given the same instructions before going on air. In case they overstep them, the facilitator should intervene immediately so as to stop the inappropriate comments.

Article 27

The licensee ensures license appropriate child protection in all its programs, in compliance with the law, regulations and the codes.

Chapter VI: Supervision and sanctions

Section I: control

Article 28

The licensee shall disclose to the MC, at its request of the latter, any document or information enabling him to exercise control in compliance with its obligations.

Article 29

The licensee shall send to the MC no later than the 31th of April each year, a report on the conditions of implementation of its obligations during the previous year, with progress reports and statements of the last financial year ended.

The financial statements must be certified by a certified/ chartered accountant.

Article 30

The licensee shall retain for three (3) months a record of all the programs it broadcasts on its antenna. At the request of the MC it provides within eight (8) days, strict deadline, copies of requested items.

The MC may at any time check the compliance of the license with its obligations under law and regulation, under the present specifications and under the license agreement provided for in Articles 2 to 6 above.

Article 31

The licensee informs the MC by registered letter with acknowledgment of receipt, of any change of address of its registered office, its communication (telephone, fax, e-mail ...) or its facilities within eight (8) days.

Article 32

As far as he is able to have knowledge of it, the licensee must inform the MC, of any projects of changes of the data in view of which the license was issued, especially regarding the statutes, the financial plan, members of the office manager, the format and characteristics of its programming, as defined by the laws and regulations force in the present specifications and the license agreement, its amendments and annexes.

Article 33

The licensee ensures that the specifications of the transmission equipment it uses complies with the license. It is committed to use only authorized connections. It enables the MC to control any of its broadcasting technical conditions. It is committed to giving access to its broadcast facilities, to officials of the MC or bodies mandated by it.

Section II: Penalties

Article 34

The penalties provided by this framework or those arising from its implementation are governed by the principles of respect for the rights of defense, legality, proportionality and transparency. All sanctions must be reasoned.

Article 35

The MC may to require the licensee to comply with the obligations imposed by the laws and regulations it, the provisions of this framework and the License Agreement, its Annexes and amendments. Such a request is published.

Article 36

In case of breach of obligations imposed by the laws and regulations in force, the present specifications and the license agreement, annexes and amendments, the MC may order the inclusion in the programs of the radio channel of the association holder of the license, of a press release of which it fixed the terms and broadcasting conditions.

Article 37

Without prejudice of the penalties provided by law, the MC may, in case of non-compliance with obligations imposed by the laws and regulations, any provision of this framework and license agreement, its annexes and its amendments, pronounce against the license holder the following sanctions, given the seriousness of the breach and after notice:

- *Send a warning to the licensee and order its publication in newspapers and / or distribution of the data radio system,*
- *Suspend the production, circulation or distribution of the service, program category, part of program or one or more commercial breaks, for months;*
- *Reduce the duration of the license;*

- *Impose a fine, followed if necessary suspension of production or dissemination to temporarily or permanently.*

In all cases the penalty must be proportionate to the gravity of the offence and the benefit that the licensee could draw of it. It cannot exceed five percent (5%) of its net sales or total income for the year preceding the offence. The MC may decide to bring the case to the competent judicial or professional authorities.

Article 38

In the case of a repeat offence, the MC may order the temporary suspension or definitive withdrawal of the license.

Article 39

In case of serious offense that is a violation of the rules and principles set out in the law 206 of 2015 and where it causes a damage difficult to repair, the MC may decide the immediate suspension of the program in question by reasoned decision, after inviting the licensee to appear and have notified him the object of the offense.

In urgent cases, the president of the MC may invite the licensee to appear at the date and time it shall determine, even days off and holidays. The summons must indicate the offense to the person concerned.

The Director of the MC may after hearing the offender and for the opportunity to present a defense, order provisional and immediate suspension of the program object of the offense. The absence of the offender does not preclude the taking of such a decision. The Director submits the case to the Commission within a maximum period of one month from the date of notification of the provisional suspension decision to the licensee.

If the licensee does not meet the conditions established for this purpose, the President of the MC address him an injunction to halt these violations in within fifteen (15) days if he does not comply, the chairman of the body directs the TRC to suspend frequency use authorization.

Sanctions can be imposed only after informing the licensee and allowing him to consider the accusation and present his defense.

Article 40

Unlicensed broadcasting activities will be subject to the fines set under Article xx of the audiovisual law. In case of transfer of the license without prior consent of the MC, besides the possibility of withdrawal of the license, the MC imposes the fine provided for in Article 28 of the law 26 of 2015.

Article 41

On-state visits, seizure of documents and necessary equipment and the preparation of related minutes are undertaken in accordance with the rules and procedures laid down under article 20 of the law 26 of 2015, by controllers authorized by the MC and sworn for this purpose.

Chapter VII: Final provisions

Article 42

Nothing in this framework and the license agreement, its annexes and its amendments can be seen as preventing the application of legislative and regulatory provisions. Any changes to the legislation or regulation will result if necessary in a revision of the specifications and the license agreement, annexes and amendments as necessary. Even in the case where these changes are not made the new law or regulation will be deemed to apply, unless specifically provided for in that new law or regulation.

Article 43

Any person may request the MC, specifications and the license agreement, annexes and amendments, pursuant to the provisions of the law 26 of 2015 concerning the access to administrative documents of public bodies.

Article 44

The licensee must pay in due time all duties, taxes and charges legally imposed upon him.

Article 45

The MC and the licensee undertake to settle any dispute relating to the interpretation or implementation of this framework and the License Agreement, its Annexes and amendments amicably. In the absence of agreement, they may bring the matter directly before the competent courts of Amman.

The law applicable to this framework and the license agreement, annexes and amendments is Jordanian law.

Article 46

Stamps fees and registration of this framework and the License Agreement, its Annexes and amendments are the responsibility of the licensee.

Done in Amman in five originals, the

The legal representative of the Association holder of the license

The president, on behalf of the Audiovisual Commission (MC)

Appendix 2 to Part III: Example – Private Television – Generalist Service

LICENSE GRANTED BY THE MEDIA COMMISSION (MC) TO THE COMPANY XY, HEREIN REFERRED TO AS THE COMPANY TO PROVIDE THE SERVICE (NAME OF THE TELEVISION SERVICE)

In blue are elements of the license that will vary according to the obligations of a specific licensee.

The responsibilities and obligations incumbent on the company arise from the general principles laid down by the Audiovisual Law Number 26 for the year 2015 (later referred to as “the Audiovisual law”) including respect for the dignity of the human person, the protection of childhood and adolescence, pluralistic character of the expression of thoughts and opinion, the honesty of information, quality and diversity of programs, the development of production and national cultural creation, the defense and the Jordanian language and illustration of the Jordanian culture.

The MC in exercise of the powers conferred upon it by the Audiovisual law hereby grants to NAME OF THE COMPANY (the "Licensee") a license (the "License") subject to the conditions set out in document and annexed to provide the XXX Name Service (as defined in the document).

This License is granted on the basis of the Licensee’s representations that the statements set out in his declaration to the MC as to his affairs made by the Licensee are true to the best of the Licensee's knowledge and belief.

This License is granted on the date appearing below and shall come into force on XXX (the “Commencement Date”) and, subject to the Conditions, shall remain in force for the Licensing period, until XXXX.

I- SCOPE OF THE CONVENTION

Article 1

This agreement is intended, pursuant to Article (XX licensing) of the Audiovisual law, to lay down specific rules applicable to the service edited by the company and the powers available to the MC to ensure compliance by the Company of its obligations.

The company publishes a private television service in the national character that is channels available through terrestrial and / or satellite and / or internet.

II - COMPANY

Article 2

At the date of signing of this agreement, the company is incorporated as a company (Name) with a capital of (amount)

At that date, the composition of capital and the distribution of voting rights are as follows:

Share capital:.....

Voting rights:.....

The Executive director of the publication is (name, address)

The company must inform the MC, within a period of thirty calendar days of any changes to these data. The AV, in compliance with Article 7 of Bylaw no. 163 for the year 2003 C will verify that these changes do not lead to the authorization becoming invalid. If this is the case, the MC box will request the company to get in compliance with this authorization within a period of three months or to lose the license.

III - SERVICE DESCRIPTION

Article 3

The company operates itself a nation-wide private television service which is/is not free-to-view.

Article 4

For terrestrial broadcasting, the company shall use the frequencies allocated to it by the TRC and shall conclude with the TRC a spectrum license agreement to this effect. These instruments must be concluded before the company starts to broadcast its programs.

The company must respect the recommendations of the MC as regards the technical quality of broadcasting programs.

The Company undertakes to inform the Board of its projects to adopt new technologies or offer new services. During the introduction of digital television in Jordan, the company will propose to the MC its plan to switch from analogue to digital mode, which will be in line with recommendations from relevant government departments. These plans will set out information and support given to consumers to help them cope with the changes.

IV - GENERAL OBLIGATIONS AND COMPLIANCE WITH INTERNATIONAL STANDARDS

Article 5

The company is responsible and accountable for the content of the programs it broadcasts. In accordance with the principles set out in Article XXX, including international commitments of Jordan on freedom of expression and communication, the company complies with the principles set out in the following articles.

Article 6

The company ensures that any political and general information programs it broadcasts are produced and carried out in conditions that guarantee the independence of information, particularly in respect of the economic interests of its own shareholders and funders, and of political or ideological influence. It informs the MC of the measures it is implementing to this end, for example, the drafting and implementation of a code of ethics for its journalists and producers.

Pluralism of expression of ideas and opinions

Article 7

The company ensures pluralism of expression of thought and opinion, particularly in the context of the recommendations of the MC. It ensures that there is a plurality of opinions presented in the programs, representative of the political and ideological diversity in Jordan. Journalists, presenters, facilitators or collaborators of programs must ensure controversial issues are presented in a fair and impartial way and that the different points of view can be set out on-air.

Public life

Article 8

In respect of the right to information, the broadcasting of programs, images, words or documents related to legal proceedings or facts likely to give rise to a criminal investigation requires that special attention be paid to respect (a) the presumption of innocence, that is to say a person not yet considered is not presented as guilty, (b) secrecy of private life and (c) right to anonymity of juvenile offenders.

The company ensures that, it provides information on decisions made by courts, they are not commented in a way that could undermine the authority of justice or its independence.

When providing information on a current judicial proceeding is referred to the antenna, the company must ensure that:

- *the case is dealt with moderation, rigor and honesty;*
- *the handling of the case does not hinder the proper course of justice;*
- *pluralism is ensured by presenting the various arguments involved, including ensuring that the parties or their representatives are given the opportunity to make their views known to audiences.*

Article 9

The company ensures its program:

- *contains no incitation to crime, civil unrest, or illegal practices;*
- *respects the different political, cultural and religious opinions and beliefs;*
- *does not encourage discrimination because of race, gender, religion, ethnicity, or nationality;*
- *promotes national unity, tolerance and human rights;*
- *gives due consideration, in its programs, to the diversity of origins and cultures of the national community.*

Individual's Rights

Article 10

The protection of the dignity of the human person is an important aspect of public order. It cannot be waived by private agreements even if consent is expressed by the person concerned.

The company undertakes to ensure no programs it broadcasts undermines the dignity of the human person as defined by law and jurisprudence.

The company respects the rights related to privacy, image, honor and reputation as defined by law and jurisprudence.

The Company shall in particular endeavour:

- *to exercise care and restraint before disseminating images or testimony which might humiliate or distress people*
- *to exercise care and restraint before disseminating images which concern a victim of accident, crime or a person in distress ;*
- *to avoid complacency in the evocation of human suffering, and any degrading treatment;*
- *that testimony of persons and private information on them is collected with their informed consent;*
- *that when non-professional participate in studio programs, game or entertainment, they are not required to waive, irrevocably or for an indefinite period, their fundamental rights including the right to the image, the right to privacy of privacy, the right to appeal in case of injury.*

Article 11

In its emissions, including games or entertainment, the company undertakes not to encourage or accept defamatory insults or discriminatory behaviours against the participants or between participants. If games or entertainment programs involves lengthy rehearsals or recording, the company will ensure participants are given sufficient rest and adequate support.

Participants must be clearly informed of which information will be captured and broadcast.

Article 12

Persons invited to appear in a program must be told in advance the name and the subject of the program for which they are requested. When they are invited to a live debate, they are informed, as far as possible, of the identity and quality of other stakeholders.

Protection of children and young people

Article 13

The chain does not ask for the testimony of minors in difficult situations in their private life, unless they ensure full protection of their identity by appropriate technical process and obtain the agreement of the minor and the consent at least one of the persons exercising parental authority.

Article 15

The company will ensure that the programs presented are not likely to impair the development and physical and psychological health of minors. In these times where the young audience is likely to be more

watching television, between 06.00 and 21.00 and even more so for programs aimed youth, violent images should be avoided and violence, included of a psychological nature, should not be perceived as continuous, omnipresent or presented as the only solution to a conflict.

The company will take necessary precautions when images which are difficult to sustain or testimony relating to particularly dramatic events are broadcast in news programs or other programs on the schedule. In particular, the public must be notified beforehand.

Article 16

The company will establish a viewing commission, with adequately trained members staff or external advisors, to ensure that programs which are not recommended for minors of a certain age are identified and clearly labelled.

The company is committed to respecting the classification of programs under the protection of childhood and adolescence as it will be adopted by the MC. It will promote this classification with his audience¹⁴.

Honesty of information and programs

Article 17

The honesty requirement applies to all programs. The Company verifies the validity and sources of information. Wherever possible, origin of the information must be indicated. When information is uncertain, it must be presented as such.

Article 18

The use of methods to record images and sounds without the knowledge of people filmed or recorded must be limited to where it is absolutely required for the information of the public. It should be restricted to cases where it provides information which could not be collected otherwise, and when there is a public interest in the provision of this information. The use of these methods must be revealed to the audience. People and places should not be identified, without exception or only if the consent of the people was gathered prior to the broadcast of the program.

In news programs, the company prohibits the use of technologies which enable images to be modified. In other programs, the public must be notified of the use of these procedures when their use can be misleading.

Article 19

The company is rigorous in the submission and processing of information. It ensures the adequacy of the context in which the images were collected with the subject they illustrate. Any use of archive footage is announced by an overlay on the screen, possibly repeated. If necessary, reference is made to

¹⁴ This could be one of the remits of the Complaints committee which would become a "Complaints and Standards committee".

the origin of the images. The images produced to reconstitute or reproduce real facts, or supposed facts, should be presented as such to viewers. Except when undertaking caricature or pastiche clearly presented as such, images or sounds should not be edited in such a way it can distort the original meaning of words or images or mislead the viewer.

Article 20

The company seeks to avoid any confusion between information and entertainment. In its news programs, the company employs professional journalists.

V- CONTENT OF THE SERVICE

Editorial control

Article 21

The company keeps in all circumstances control of the programs it broadcasts.

Defence and illustration of the Arabic language and Jordanian dialect

Article 22

The company shall ensure proper use of Arabic or Jordanian dialect, as is the case in its emissions, and in adaptations, dubbing and subtitling of foreign programs. The company strives to use the Arabic in the titles of his shows. An adviser to the Arabic language is designated by the chain.

Article 23

The provisions of the preceding article are not intended to prevent the company to provide programming in other languages, including French and English, when it is appropriate, for instance in educative programs or movies. When doing so, it will ensure a proper use of the foreign language.

Respect of schedules and programming

Article 23

The company publishes its schedule of programs no later than two weeks before the first day of broadcasting programs of the week in question. It undertakes not to change this schedule within less than 7 days of broadcasting, including this one, except requirements related to sporting events and exceptional circumstances:

- *new events;*
- *unforeseen issue regarding intellectual property rights;*
- *decision of the judiciary;*
- *technical incident;*
- *public interest;*
- *if very low audience numbers of previous episodes require a series program to be cancelled.*

The company respects, subject to the constraints of live broadcasts, programming schedules previously announced.

Article 24

The company ensures that the sound level of advertising programs do not exceed the average sound level of the other programs.

Article 25

The company, no later than 12 months after the granting of its license, provides to the MC a note setting out the measures it takes to deal with, and respond to, audience comments and complaints. The company makes every year a report on comments and complaints received from viewers and its response to those. This report must be received by the MC no later than March 31 of each calendar year.

Description of the service

Article 26

*The service will broadcast programs for **XX hours a day/week**. This duration can only be changed with the agreement of the MC. The entire schedule is designed or assembled by the company.*

Article 27

The company offers a diverse generalist programming that caters to the entire public. An important place is given to information, Jordanian audiovisual and movie production, programs for children and young people, entertainment and most popular sports. The company broadcasts concerts and live performances, in particular from festivals and performances given in the different areas of Jordan.

*It reserves for programs produced in Jordan at least **two thirds (POINT WHICH CAN VARY ACCORDING TO LICENSES)** of its annual broadcasting time.*

Article 28

*The company makes available **X** percent of its programs to the deaf. The company also undertakes to make at least **XX** hours a year (not including repeats) of programs accessible visually impaired through appropriate audiodescription. A further review of these provisions will be held every year.*

Information and magazines

Article 29

*The company broadcasts daily at least **XX** complete editions of news bulletins. It does not insert any advertising in the course of its news programs. It provides regularly publishes news magazines, including in primetime.*

All these programs represent an annual volume of at least XX hours, excluding sports and weather forecast programs.

The company endeavours, through its information and current affairs, political, economic, scientific programs and documentaries to help the public discover and better understanding the contemporary world. It addresses the economic, social and scientific issues and promotes social cohesion, solidarity and civic responsibility.

Programs for children and young people

Article 30

The company offers programs for children and young people during the times and days they are available. At least XX (5) % of its broadcasting hours and YY (8%) of its total budget are devoted to these programs. The company annually spends a minimum of XX hours to magazines and documentaries for young audiences. These programs promote the physical, mental and moral development of children and provide them with useful references in the construction of their approach to the world. They deal with diverse topics which help children to understand current issues and the evolution of society.

The hosts and presenters of these programs respect the young audience and do not exploit inexperience and credulity. They should not appear in any advertising aimed at young audiences.

Investment in Production

Article 31

The company spends every year at least XX % of its budget of the previous year in producing audiovisual works in Jordan.

VI- ADVERTISING, SPONSORSHIP AND TELE-SHOPPING EMISSIONS

Article 43

The duration of advertisements must not exceed twelve/ fifteen minutes a continuous period of sixty minutes. Advertising messages are clearly identified and separated from the rest of the programs by appropriate means. This is particularly important for advertising screens around or within programs for children and young people.

Article 45

The presentation or promotion of objects, products or services through tele-shopping programs must comply with laws and regulations relating to consumer information. The objects, products or services must be described as precisely and faithfully as possible, in all quantitative and qualitative elements.

Article 46

Sponsored programs must be clearly identified as such at the beginning or the end of the show. To avoid confusion in the minds of young viewers, the company ensures that there is no interference between the name of the sponsor or one of its brands and that of a youth program or an element thereof. News programs cannot be the object of sponsorship.

Article 47

When a program uses product placement, that fact must be clearly do at the beginning and end of the program.

Article 48

The Company will set out its policy as regards advertising sponsorship and product placement and will submit to the MC for approval.

VII- ASSOCIATED DATA

Article 49

Associated data are data transmitted at the same time as the main program of the television service and intended to enrich and to complete it. Teletext and subtitling are associated data. The company has editorial responsibility for associated data and complies with all regulations issued by the MC about it.

VIII- CONTROL

Article 50

The Company shall immediately inform the MC of any proposed change in the amount or distribution of capital or voting rights, as soon as it has been discussed in the board of relevant companies. The Company shall immediately inform the MC of any change of its participation or interest in another licensed company as soon as it has knowledge of it. At his request, this information may be kept confidential by the MC.

Article 51

The company provides to the MC, within two months following the end of the fiscal year, a duly audited copy of the licensee's final financial statements, including documents on its subsidiaries.

The Company shall provide to the MC, at its request the annual reports and accounts from each of its shareholders holding at least 5% of its capital.

Article 52

For the purposes of validating its compliance with articles 30 and 31, the company every year to the MC the cost of programs made under these articles, and relevant contracts .The company undertakes to provide to the MC an annual review of planned spending

Article 53

The company shall provide to the MC within eight days of their conclusion, all agreements in for the total or partial takeover by itself or its shareholders of another company licensed by the MC.

Article 54

The company communicates to the MC all the information the commission reasonably requests to ensure compliance with its legal and regulatory obligations as well as those resulting from this convention. This information includes, but not exclusively, contracts for producing or purchasing audiovisual and cinematographic works and programs. The data provided are confidential. The MC will work to promote the electronic transmission of information in accordance with generally accepted standards in this area. The company shall provide the MC information on the cost and financing of emissions other than cinematographic and audiovisual works. The company shall provide the MC, to the extent possible, audience research it carries out

Article 55

The company keeps for at least six months a record of all programs broadcast in compliance with Article 21-C of the Audiovisual law. The MC may request copy of these programs.

Article 56

The company shall annually send to the MC no later than two months after the end of the previous financial year a report on the execution of its obligations and commitments during that year, in compliance with article 21-H of the Audiovisual law.

IX - SELF-DISCIPLINE

Article 57

Without prejudice to the contractual penalties provided for by law, in the event the Company has breached any of its obligations and commitments, it may propose to take measures to remedy the breach. The MC may take this into account when deciding on the appropriate penalty, within the boundaries of the law.

X - CONTRACTUAL PENALTIES

Article 58

The MC may give notice to the company to comply with the stipulations contained in the agreement and the amendments which might be annexed. It shall publish this notice.

Article 59

The MC, in the event of non-compliance with any provision of this license and its annexes or amendments, after due consideration given to the seriousness of the breach and after notice, decide against the editor one or more of the following sanctions:

- *A financial penalty, the amount may not exceed the ceiling provided for in article 31 of the Audiovisual Law, if the breach did not constitute a criminal offense;*
- *The suspension publishing, broadcasting, distribution, service, category of program, part of the program or of one or more commercial breaks, for a month at most;*
- *The reduction in the duration of the frequency usage authorization in the limit of a year.*

In case of further violation of a provision of this Agreement that led to the delivery of a sanction, the MC may impose a pecuniary penalty than cannot exceed the ceiling set for repeat offenses by Article 28(b) of the law 62 of 2015.

Article 60

In the event of breach of the provisions of this agreement, the MC may order the inclusion in the company's programs of a statement in the terms and under the conditions the Commission determines.

Article 61

In the event that the company would not have complied with measures taken under Articles 58 to 60, the MC may it impose one of the penalties provided for in Article 59.

Article 62

Contractual penalties mentioned in Article 58 of this Convention are pronounced by the MC in accordance with the safeguards laid down in the law.

XI - THE REVIEW OF THE CONVENTION

Article 63

No provision of this Agreement shall preclude that the provisions of laws and regulations that could be made, after the signature of this Convention are applicable to the Company.

Article 64

Without prejudice to Article 63, this Agreement may be amended by agreement between the company and the MC. In particular, the obligations contained in Article 30 and 31 may be reviewed at the request of the company.

XII - FINAL PROVISIONS

Article 65

The parties agree that this Agreement shall enter into force on (date), and will last until the (date).

Part IV: Analysis of the Law of the Audio and Visual media 2015 (26)

The Audiovisual Law is divided into 5 main parts.

- Entry in force (Art. 1) and Definitions (Art. 2);
- Media Commission
 - Establishment, composition, role and responsibilities of a legal entity (Art. 3-9),
 - Its resources (Art. 10-14).
 - Its role in issuing licenses (Art. 15-25)
- Recorded materials (Art. 26-27);
- Sanctions and enforcement (Art. 28-31);
- Consequential matters (Art. 32-35).

4.1 Entry in force and definitions

4.1.1. Key principle

It is recommended that immediately after (or before) Article 1, a provision should restate the principles of freedom of information as regards broadcast media. For instance:

“The State guarantees freedom of opinion. Every Jordanian shall be free to express his opinion by speech, in writing, or by means of photographic representation and other forms of expression, provided that such does not violate the law.

Freedom of broadcast media shall be ensured within the limits of the law. “

4.1.2. Definitions

The new law has amended the definition of Broadcasting so that programs which are transmitted over the internet (programs being defined as “Radio or TV services or any part thereof transmitted by the licensee to the public”) which were previous outside of the scope of the law are now captured by it.

Whilst it makes sense and is legitimate to ensure “technology neutrality”, that is to treating the same services on the same platforms in an equitable way, which means that if differences of treatment can be justified when they correspond to objective differences of situation/ possibilities, this provision now means that blogs with audiovisual material fall under the same rules as a television or radio service. Regulations which are legitimate to ensure equitable repartition of the scarce resource, and to subordinate the use of spectrum to certain content obligations are no longer legitimate when it comes to the internet, which does not have the same physical limitations.

It is also suggested to amend **Article 2 and 3 of the Bylaw** 163 to ensure that all IPTV, OTT content

requires a license.

It is strongly advised to reconsider this new provision, in particular since, read in conjunction **with Article 19**, it would mean all publications carrying audio and visual content or links to such content on the internet, blogs, tweets, etc. need a license, which not only is contrary to freedom of expression but is also entirely unrealistic in a world where the availability of virtual private networks, and other such devices make it impossible to regulate the internet, indeed, in order to be effective such a regulation should be targeted to material which is really harmful, under the control of the courts.

Additional definitions are provided in the proposed amendments to the Bylaw 163 of 2003. The definition of rebroadcasting is noted, which is useful.

4.2 Media Commission

4.2.1. *Its existence*

The existence of a Media Commission, separate from government, is in itself a very good thing. However, as set out in the Law it does not seem to benefit from all the guarantees it would need to be independent. A number of points related to the composition, independence and powers of the Commission should be amended in order to bring the Law more fully into line with international standards.

Article 3 (a) does establish this commission as a financial and administrative independent corporate entity with legal personality and the right to go to courts. It is stated that the commission is “established under the jurisdiction of the Ministry”; however it is welcomed that the amendment to the previous Law, has removed former clause 3(b) that stated that, “*the Commission is financially and administratively affiliated to the Minister.*”

However, the fact that the Commission is a separate legal entity does not guarantee its independence. We would argue that this independence must be explicitly stated and protected guaranteed by the law.

Recommendation: The law should explicitly set that the Commission shall enjoy operational and administrative autonomy from any other person or entity, including the government and any of its agencies. The Commission should also have its own bank account.

4.2.2 *Composition of the Commission*

The selection of the members of a regulating body is paramount to ensure its independence. According to **Articles 6 and 7** of the Law, the Audiovisual Commission comprises a Director and Executive staff.

The governing body structure of a regulator should be determined by the nature of and reason for the regulated activities and the regulation being administered, including its level of risk, degree of discretion,

level of strategic oversight required and the importance of consistency over time. For independent regulators, there are three main governance structures used:

1. A Governance board model – the board is primarily responsible for the oversight, strategic guidance and operational policy of the regulator, with regulatory decision making functions largely delegated by the chief executive officer (CEO) and staff – for example, the United Kingdom’s OFCOM;
2. A Commission model – the board itself makes most substantive regulatory decisions (examples include the United States’ Federal Trade Commission and the French Conseil superieur de l’audiovisuel);
3. A Single member regulator – an individual is appointed as regulator and makes most substantive regulatory decisions and delegates other decisions to its staff.

As regards media, this last model is not widely used as it would lead to concentrating into the hands of a single individual very significant powers pertaining to human rights. In addition, since one of the requirements under international law is to promote pluralism in the broadcast media, a Commission or a Board with no less than five members and no more than 12/15 would seem better able to represent a plurality of viewpoints, representative of the society as a whole and in its diversity, but also a variety of complementary experiences and skills.

To this end, broadcasting authorities in most countries are governed by a board with a number of members (usually between five and 15), appointed in a manner which ensures they are broadly representative of society as a whole.

We would therefore urge the Government and Parliament to consider reviewing the structure and move to a Commission with at least five members.

In any case, whichever of the three models is chosen, there are some key conditions to ensure the independence of the regulator:

- Selection and appointment of the members;
- Term of their office;
- Incompatibilities and conflicts of interests.

Article 6(b) provides that, *“The Director shall be appointed by virtue of the Council of Ministers decision upon the recommendation of the Minister, provided that such decision should define his salary and other financial rights, and his services shall be terminated in the same manner.”*

According to the law, the choice and dismissal of the Director is entirely left to the Government, and there are no provisions determining the term of its office, or the conditions of its dismissal.

Whilst the fact that the formal appointment is made by the Government can be acceptable, there should be an open and transparent procedure as to the selection of the individual, and guarantees as to its independence when in post. This is not the case today.

There are a number of ways this mechanism could be brought closer to the requirements of international standards. At the same time, the author is aware that this represents a very significant change and needs to be consistent with a review of the system of public appointments in Jordan.

The mechanism described below is applicable for appointments in all three models (Governance board model, Commission model or Single member regulator) as described above.

First, there should be a publication of an invitation to apply to the post, with a description of the job, criteria for selection (key experience and skills required), and selection should be made by an independent panel, including representatives. Applicants should be requested to present in a short document their vision for the Commission/and or the nomination authority (where members are representatives of civil society organizations) and their strategy to implement the role which would be given to them by the law.

Second, where the appointments are made by government, an independent panel should be set out to consider the applications and make the selection, on merits. Depending on the number of applicants, there could be a two-stage process: it is common to establish a short-list based on the written applications, and then to invite the short listed applicants to an interview with the panel. In the case where an appointment has to be made by a civil society body, this body should very clearly set out the mechanism by which it will select his or her nominee.

The composition of this panel could vary but should be representative of a number of different interests and parts of the society in order to guarantee the independence and pluralism of the Commission.

The commission in charge of other public appointments, if it exists, could be given this role. Alternatively, it could fall to an ad-hoc commission, comprising of representatives of the media sector, or various communities; when there are not many representative bodies, nor representative stakeholder organizations, one option could be to set up a multi-party committee of Parliament in charge of this selection. The appointment could then be ratified by the Government, in compliance with the Constitution.

In the case of a multi-members model, a Governance board or a Commission, the Chairman or Director could be either be appointed as such (for instance Ofcom, CSA) or, once appointed as a member, chosen by the other appointees to take the Chair or Director's role. The term and conditions of this mandate should be decided by the Board or Commission itself.

Once appointed, it is essential that members keep this independence by not being subject to dismissal at will. The duration of the mandate of members should also be set in the law, and it should be a fixed non-renewable term of four to seven years. Dismissal should only happen in a limited number of cases set out by the law, as below:

- If the member comes to be in a situation incompatible with appointment, or
- If the member becomes incapacitated, or

- If the member ceases to perform his/her functions in an acceptable manner. In this case the decision will need to be ratified by Parliament.

Non-renewability is important as it ensures the appointee will remain independent from the nominating authority. It is essential that the appointees remain independent from all political parties, economic enterprises; the guarantees of independence should apply not only at the time of their selection, but be applicable for as long as they remain in post, and preferably for a period afterwards. It should not be possible for a member of the Commission to take immediately after the end of his/her mandate an interest or a position in a broadcasting entity.

Article 6 c provides that, *“The Director shall act as the head of the Executive Staff of the Commission and shall represent it before others and may delegate some of his powers to any of the Commission’s Officials provided that such delegation is to be written and well defined.”*

In a single member commission, it can be necessary to delegate some powers of officials for practical reasons. It is recommended that this Article is reviewed if a multi member commission is established as the powers could be shared on a collegial basis between the different members.

Article 6 d provides that, *“the executive Staff of the Commission shall consist of officials and employees appointed by a special bylaw issued for this purpose and their employment conditions, salaries, allowances, bonuses, rights, responsibilities and other matters shall be defined by that bylaw.”*

It would be preferable for the Commission to appoint the staff itself, through an underpinned and transparent selection process. Whilst it is acceptable to recruit civil servants or employees of media companies, the same incompatibilities for members of the Commission and the director should apply, meaning they should resign from their office or jobs in order to be appointed. Employees of the Commission should have no association at all with political parties, government, parliament or media companies.

Article 7 further provides, *“Any person to be appointed as the Director of the Commission shall meet the following requirements: -*

- *To be a Jordanian Citizen;*
- *To have the First University Degree, as minimum;*
- *To be adequate and experienced in the field of information;*
- *Not to be convicted for any crime or offence of honor or integrity.*

This Article has the merit of requesting that the Director has adequate experience and skills but doesn't deal with the risk of conflict of interest. In addition the incompatibility for crime could be made more specific.

Conflicts of interests are also dealt with by Article 9, in an appropriate manner as far as interests in the media sector are concerned. However, a number of amendments would reinforce protection against the risk of undue interference and conflicts.

Provisions dealing with the risk of political obedience should also be reinforced, by the inclusion of rules preventing Commission members and senior staff to have any political roles.

The author recommends extending the incompatibilities and obligations to all staff members, although with possible exemptions for their spouse or relatives' employment in the sector. (For instance it should be permitted to a driver of the Commission to keep the position if his/her daughter becomes an employee in a non-senior role in a radio station since the real risk is minimal, provided this situation is declared and accepted by the Commission).

In addition all declarations should be renewed every year, and made public as it is the best way of ensuring their sincerity. Although the Law states they may be prosecuted for false declarations, it is not stated that not complying with the obligations under this Article will lead to immediate dismissal,

Duties and powers of the Commission

The law should provide for a clear definition of the duties and powers of the Commission. This is the purpose of **Article 4**.

We welcome new provisions introduced by the 2015 Law which broadens the role of the Commission to give advice, recommendations and organize discussion with the stakeholders so as to foster the development of the media sector, in particular clause (j) *“Organizing media activities to elevate the status of media profession, training and qualifying media people, conducting studies and researches as well as holding conferences, seminars, festivals and other activities.”*

We note this is a very important role, which requires adequate funding and we hope the Commission will be given the necessary additional resources.

A number of amendments are however still necessary to bring the role of the Commission closer to international standards.

Under international standards, it is not sufficient just to protect freedom of information, freedom of expression and pluralism but some positive action should also be taken to encourage and promote those rights. This role should be explicitly given to the Commission by law, by extending the Commission's overall responsibility as set out in (a):

- Addition of a duty to promote and protect freedom of information and freedom of expression in the Jordanian media sector;
- Addition of a duty to promote and protect pluralism of the Jordanian media sector;
- Addition of a duty to develop the quality of the media services and ensure they appeal to the tastes and interests of the Jordanian citizens and of the society as a whole and in its diversity;
- Possible addition of a request for the Commission to prepare, following a public consultation, and to publish a report on the media landscape and to make

recommendations to the government and parliament (which could be an alternative to the amendment proposed in the draft bill).

We welcome the new clause (g) whereby the Commission is requested to, “implement the *general media policy as endorsed by the government*”. This is however only a role in relation to implementing the policy determined by the Government, whilst the Commission could play a pro-active role in helping the government develop this policy, including by making proposals on potential actions. Of course, the Government and Parliament will keep the decision-making power, but their decisions would be very helpfully informed and prepared by the Commission using their knowledge of the sector and discussions with the stakeholders. While nothing in the text precludes this from happening, it would be desirable to make two amendments: (a) formally request the Government to consult the Commission before making any proposals to amend the legislation, and to have regards to its comments; and (b) to give the right for the Commission to make proposals to the Government. All such comments should be published.

Clause (b) should be subject to a complete overhaul as it gives to the Commission a very vague and limited role that is only to study the license applications. The provisions providing for issuance of licenses by the Council of Ministers go to the heart of independent broadcast regulation and are particularly problematic. Broadcast licenses are the key instrument through which the broadcast media are regulated, and if the power to grant and administer licenses is not vested exclusively in an independent regulatory body, there can be no independent media. While the law should give direction as to the licensing regime, the criteria to select applicants, and key elements of the licenses, the selection itself should be the responsibility of the independent Commission.

Subsection b should therefore be reviewed so as to encompass the following duties:

- Establishing the licensing regime, according to the key criteria set in the law;
- Organizing the application process for available licenses, and
- Where appropriate selecting amongst the candidates through an open and transparent process.

It is important to note that for licenses using terrestrial radio spectrum, the scarcity of this resource means that it is very likely there will be several candidates for a given license. In that case, the selection process is essential and should be entirely left to the Commission provided it complies with general directions given by law for instance to ensure that the selection criteria reflects the best interests of citizens and the society. It is customary to have provisions aimed at considering the variety and richness of the content offered to the public by the selected services as a whole, the balance between national and regional or local services, the duty to ensure there is enough content accessible to people with hearing or visual disabilities (provision of access services such as subtitling, signing and audio description), the involvement in education and training, the promotion of arts and culture, etc.

All these criteria and objectives should have been determined following a public debate, and be set out by law. However in the case of services made available to the public by satellite or cable, where it is rolled out, scarcity is no longer an issue and many more licensees could be granted, and only subject to respect of minimal obligations.

The legislation should provide for different types of licenses:

- For terrestrial licenses, where in exchange for the right to use a scarce public resource, licenses can be given additional “positive” obligations for instance to support local culture and local production, promote music and arts programs, provide news bulletins, etc., commission or produce children's programs, etc.
Within this broad category there should be subtypes, for local and community services, which could have different types of obligations.
- For satellite and cable licenses, these “positive” obligations should be more limited.

All licenses should however be subject to the same requirements in matter of respect of the individuals, protection of minors, interdiction of incitation to crime hatred and violence, etc.

Clause (c) This clause should contain the principle that the Commission should monitor the respect by licensees of the Law and of their licensing conditions. A general provision should be inserted giving to the Commission the power of enforcing the regulation and licenses, to be defined at a later stage in the law.

Clause (d) should be annulled as there should be no prior censorship. This point is discussed in the analysis of Articles 26 and 27 which deal with recorded material.

Clause (h) is too vague. It could be a request for the Commission to prepare, following a public consultation, and to publish a report on the media landscape and to make recommendations to the Government and Parliament.

Clause (j) The constitution of the Commission is most welcome. In any case, the composition, appointment mechanism and the role of this Commission should be set out in the Law. This Commission should be able to make decisions and not only have a consultative role, as seems the case. However, where the regulator is of a multi-member model type, following our recommendations to guarantee its expertise and independence, it would be acceptable for the Commission to have only a consultative role, leaving the decision to the regulator.

It would also be necessary to insert, for the avoidance of doubt, and to restate the principle, a general provision to this effect of stating that the Commission must be free of any interference when fulfilling its missions. The law should make it an offense for a person or an entity to seek to influence the members or staff of the Media Commission in the discharge of their duties, or to interfere with the activities of the Media Commission, except as specifically provided for by law. Such attempt should be repressed by law as with any other attempt to bribe a public official.

Article 5 deals with the role of the TRC and the duty of the Commission to adhere to its decisions. Because of the very close link between the spectrum license and the broadcasting license, the coordination between both commissions is essential. This Article does not set out clearly enough how they will co-ordinate their work. It does not make clear what happens if a broadcasting licensee does

not comply with the obligations of its spectrum license as granted by the TRC. It does not make clear the respective role of each Commission in developing licenses for applicants that intend to cover a specific area of the country

The following recommendations would help clarify the collaboration between the two authorities:

Once the TRC has established which spectrum is reserved for broadcasting, it will request the Media Commission to propose how best to plan this spectrum in order to maximize its efficient use. Since the same bandwidth could be used to provide either for a single nation-wide license or a for a small number of regional licenses or for a much bigger number of local licenses, with very significant impact on the media landscape in the country, this detailed plan should be decided by the Media Commission.

If the TRC finds that a broadcasting license is not complying with the technical conditions of its spectrum license, it should let the Media Commission know so that this commission can be part of the discussions with that licensee and help find a solution. In any case, their broader role and the fact they must deal with spectrum used for telecoms and broadcasting but also by the defense, police, ambulance and a wide number of uses, means that authorities in charge of spectrum regulation are usually less or not independent of government. There is therefore a risk that the grant and removal of a spectrum license could be used as a means of controlling broadcasting licensees.

To avoid the risk, or the perception of such a risk, the legislation could provide for the following mechanism:

Once the TRC has determined, after consultation with the Media Commission, the number and conditions of spectrum licenses, the Commission selects, on the merits of their broadcasting license application, those who will be given access to a terrestrial spectrum license (or to a share of it in the case of a digital multiplex license).

The TRC automatically grants the relevant spectrum license to the broadcasting licensee selected by the Media Commission and monitors compliance with its technical conditions.

Should any problem arise the TRC will ask, in writing and publicly, the Media Commission to warn the licensee and take action according to the enforcement mechanism set out by the (spectrum) law.

If the licensee continues to disregard its technical obligations as per the spectrum license, the Commission may decide, in compliance with the law, to remove its broadcasting license and request the TRC to do the same for the corresponding spectrum license.

The mechanism will be slightly different in the case of multiplexes carrying several different broadcasting licensees, where the Media Commission and the TRC will work together to find the solution which ensures only those responsible for non-compliance are to lose their right to broadcast.

It is therefore recommended that Article 5 is amended following these recommendations, in the light of further discussions with both Commissions. This would also imply amendments to Article 19 to ensure due coordination between the TRC, in charge of radio spectrum, and the Media Commission (which in any case will need to be amended following the transfer of licensing responsibilities from the

ministers to the Commission).

Article 8 deals with the responsibilities of the director. It should be significantly amended. As explained above, these should be the responsibilities of the multi member commission and not a single individual. The Commission should be the body granting, monitoring and removing licenses, rather than simply advising the ministry on the matter.

The conditions and selection criteria should be set out in the Law. Where bylaws are necessary, their content should be very clearly set out so that they cannot have the effect of amending the Law in a substantive manner.

Independence does not mean lack of accountability, on the contrary the more independent and powerful a body is, the more accountable to the citizens it must be. This accountability duty could be fulfilled by the establishment of an annual public report, sent to the Minister and discussed with the Minister's office, as well as in Parliament, and with the media sector. This would not only set out progress and difficulties but also make proposals for further advancement. The Law should also give to the Commission the right and the duty to consult with stakeholders and the public.

The powers of the Commission in matters of editorial standards and of advertising are too vaguely described. This should be the subject of a debate with the sector to determine what is appropriate. It is good practice to limit the time devoted to advertising to a maximum of a fifth or a fourth of a scheduling. But as a minimum the Commission should be requested to ensure that advertising and commercials are clearly identified as such so that there can be no confusion for the public.

The fees and charges should be set by the Commission under a ratecard approved by the Ministry. Since it is public money, it is absolutely fair that the ratecard itself should be approved by the Ministry, after consultation with the Commission. However its application to individual licensees should be done in a fair and non-discriminatory way, without any discretion left to the Ministry.

The power to close an unlicensed channel, added in 2015, is standard, but appropriate guarantees should be added, to guarantee that the unlicensed service is given appropriate notice and possibility to obtain a license, and under the courts' control.

We note that such guarantees exist as regards the second new clause, although the total interdiction of pornographic content is at the least controversial, provided it is reserved to adults and appropriately encrypted.

There is no specific duty to ensure a wide range of programs are made accessible to those with hearing or visual disabilities.

The Law should therefore give the following duties and responsibilities to the Commission:

- Managing the Commission and supervising its affairs;
- Coordinating with the relevant authorities in assisting the Commission to carry out its duties;

- Following up the execution of the General Media Policy and the national plans determined there under, reporting, at least once a year, on the progress towards this policy and recommend any amendments or new measures. The annual report of the Commission to be subject to a public debate with stakeholders and licensees, and a public debate in Parliament;
- Inviting applications, granting, renewing, amending or cancelling broadcasting licenses under the provisions of this Law and relevant bylaws;
- Signing the contracts and agreements concluded by the Commission with others including the licensing agreements;
- Preparing the draft budget and final accounts of the Commission, and referring it to the Minister to be submitted to the Parliament for ratification;
- Set the charges and fees for the services provided by the Commission so that they are fair, equitable and transparent, set at a reasonable level and do not establish undue discrimination between licensees;
- Taking the proper procedures to force the licensees to comply with the licensing terms and to adhere to the Audiovisual Media General Policy;
- Considering the complaints presented by the public against the licensees, and taking the proper procedures for that respect. The Commission's annual report will contain a section on the complaints received and how they have been resolved;
- Considering the complaints presented by one licensee against another, or by a licensee in the audiovisual media sector against another in the telecommunications sector or vice versa; as well as taking the required procedures and issuing the proper decisions in that regard, in coordination with the specialized authorities, with the exception of financial disputes. The Commission's annual report will contain a section on the complaints received and how they have been resolved, subject to the respect of business secrets where appropriate;
- Issuing the instructions of the programs, advertisements and commercials, including for instance a maximum number of minutes per hour devoted to commercials (no more than 12), rules ensuring that such commercials are very clearly labeled and separated from the rest of the programs;
- Production codes (after consultation with the industry) setting out editorial and technical standards which licensees should comply with. This should include a requirement that a sufficient number and variety of programs broadcast in the licensed services are made accessible to people with hearing or sight impairments through audio description, signing and subtitling;
- Executing any assignments or duties entrusted by the Minister and related to the implementation of the provisions of this Law, providing that these duties are compatible with its independence;
- Closing any unlicensed satellite channel or radio station or show room, when the person responsible for this service has not complied, within one month, with the Commission's request to apply for a license;
- Suspend the broadcast of any item or program in exceptional cases where national security or societal peace are at jeopardy or that broadcast pornographic material which could be accessed by minors, after obtaining a judicial warrant issued by the competent judge. In the event of an emergency, the Commission may suspend the broadcast before obtaining the judicial warrant

provided it requests it as soon as it is practical.

4.2.3 The Commission's resources

There is no independence without adequate resources, guaranteed over a fixed period, and determined in a way which ensures the regulator will be able to set out which resources he needs to fulfill his mission, and obtain them. The risk that a government decreases the resources of a regulator which it considers as too independent is always present. **Articles 10 to 14** that deal with the administrative and technical aspects of the resourcing of the Commission do not give enough assurance in the matter. They should include the principle of adequate, guaranteed and sufficient funding as well as staffing.

For instance, Recommendation No. 23 of the Council of Europe's Committee of Ministers¹⁵ states, in its Article 9-11, "*Arrangements for the funding of regulatory authorities - another key element in their independence – should be specified in law in accordance with a clearly defined plan, with reference to the estimated cost of the regulatory authorities' activities, so as to allow them to carry out their functions fully and independently. 10. Public authorities should not use their financial decision-making power to interfere with the independence of regulatory authorities. Furthermore, recourse to the services or expertise of the national administration or third parties should not affect their independence. 11. Funding arrangements should take advantage, where appropriate, mechanisms which do not depend on ad-hoc decision-making of public or private bodies.*"

The following mechanism could be recommended:

The Commission writes and application for resources, (a draft budget) explaining how it intends to fulfill its missions and which resources it needs, including appropriate staffing, training, equipment for monitoring, funding for adequate consultation and research. This draft budget will be presented to the Ministry for discussion, which will make recommendations. Both the draft budget and the Ministry's observations should then be discussed a by the appropriate committee of the Parliament which will make a decision, and ensure the adequate budget is approved according to the general rules. The budget will be fixed for the period.

The budget will be made of grants from the Treasury's general funds, but also of the fees paid by the licensees. It is appropriate to ensure that regulated authorities contribute to the cost of regulation, but this should be done in a way which ensures the regulator does not only rely on the industry for its existence, or that the regulator has to increase the fees (and worse, give fines) to maintain its resources at an appropriate level. The budget should therefore be determined under objective criteria.

All monies raised by the regulator in fines and licenses should be less than the Kingdom's Treasury has to find but should not change the total amount available for the regulator. When the regulator is given

¹⁵ Recommendation No. 23 of the Council of Europe's Committee of Ministers to Member States, on the Independence and functions of Regulatory Authorities for the Broadcasting Sector, 20 December 2000.

any additional duty, relevant grants should be determined and approved in the same way as the budget. There should be no additional money given by the government to the regulator unless the due process is followed.

We note that **Article 10** provides for the ability for the Commission to receive donations and gratuities. Whilst this can be possible and legitimate in some circumstances, particular caution should be taken. First if the budget is appropriate, there should be no need for donations; however, for instance a wealthy individual or a company could want the Commissions' help in supporting a training program or promoting media literacy to a higher extent than allowed by the Commission's budget. But second, there is the risk that these donations jeopardize the Commission's independence. All such donations should therefore be declared. It could further be stated that no such donations could be accepted from any individual or company with an interest in the media sector. At least the acceptance of such donations should be subject to Parliamentary committee approval.

There are no comments on **Articles 12, 13 and 14**.

4.3 The licensing regime

There are no comments on **Article 15**.

Clauses a and b of **Article 16** have the merits of giving some details as to the licensing process. However they are very incomplete in that:

- They seem to prevent associations from holding a license;
- They do not provide for sufficient information as to the content and the quality of the services to be licensed. We would therefore recommend the addition of a new clause in Article 16 to this effect, requiring the applicant to provide detailed statements describing its proposed service, including types of programs produced or commissioned, budget and hours of programming allocated to specific genres;
- There is nothing to prevent a company or an individual to hold too many licenses when this can be detrimental to pluralism. We would recommend the addition of a new clause in Article 16 to this effect requiring the applicant to provide accurate information related to any other media interest or broadcasting license the applicant's shareholders or partners may have in the Kingdom or abroad (an interest to be described as either the holding of more than five percent of the capital, or a remuneration received for employment or other services).
- There is no possibility for the Commission to take into account when granting a specific license the impact it would have on the overall landscape: plurality of media ownership, diversity of view points which are legitimate concerns the Commission should be allowed to have regard to;
- In addition, Article 16 c should be entirely redrafted to give full responsibility to the Commission for the selection and licensing process. Of course, the Commission's decisions should be subject to the same rules as other public authorities in matter of appeals (publication of the decision with its grounds).

To summarize, the Law should provide that when assessing the merits of an application, the Commission

should have regard to

(a) The following duties:

- Promote a wide range of viewpoints which fairly reflects the diversity of the population;
- Prevent undue concentration of ownership; and

(b) The following criteria:

- Quality, breadth and range of services and programs provided to the public, including entertainment, sports, educative programs for both children and adults, and programs aimed at fostering the democratic debate;
- Measures aiming at ensuring protection of minors from potentially harmful content;
- Measures aiming at ensuring a wide range of programs are made available to those with sight or hearing impairments through appropriate subtitling, signing and audio description;
- Ability to promote national and regional culture, arts and traditions;
- Measures proposed to support the development of an audiovisual production industry in Jordan;
- Measures proposed to guarantee the availability of impartial information of international, national and local nature, in particular measures protecting the independence of journalists;
- Measures proposed to ensure adequate staffing, both in number and as regards their skills;
- Financial capacity and strength of the business plan, over the duration of the license;
- Technical capacity of the applicant and its ability to use adequate equipment.

Article 17 sets out the financial conditions to be met by the applicant.

Clause (a) that deals with bankruptcy is fine, but the notion of performance bond is not clear enough, and could lead to prevent smaller size applicants from applying and starting a service. Whilst it is legitimate to ensure applicants have sufficient funding to deliver on their promises, the level, or how it will be calculated, should be clearly set out by law. In any case, the level should be fair and non-discriminatory.

There are two further comments, which relate to the relevant provisions of the Bylaw and proposed amendments.

The combination of the definition of **Article 2** and **new proposed Article 5** seem to mean that the same service simulcast/rebroadcast on terrestrial, satellite and internet should have three different licenses and pay three times the fees. This is not right. Rather the service should have one license (for the terrestrial service) enabling them to simulcast the service on satellite at the same price.

The combination of the very high level of fees for licenses, the requirement to have significant social capital in addition to the level of performance bonds could be a deterrent. These fees should be reviewed to be linked to the licensee's turnover, but also to provide for much lower fees for non-for profit services (community/ third sector).

The new Article 3 B provides that neither the application fee nor the annual fee should be returned if the

license is not granted. Whilst it is absolutely normal to maintain the application fee for a license which is not granted, it seems too much to also keep the full annual fee.

Article 18 deals with the granting and transfer of licenses and should be amended to provide for the Commission rather than the Minister to be the leading authority.

Clauses a and b: We welcome the amendment made in 2015 to provide for justification, and right of appeals, of a decision to refuse the granting of a license. However, since the regulator instead of the Government should be fully responsible for the licensing, Article 18 a and b should be redrafted.

We understand there is a fear that a non-“fit and proper” person is given a license, and that, for this reason the Council of Ministers wants to retain a right of veto on the granting of licenses. Even if this use of such a veto is subjected to Parliament’s approval, this is not best practice. This power, which existed for instance in the UK legislation, has been removed with the Communications Act 2003, as the Government believed that the creation of a strong and independent multi-member regulator would make such an occurrence virtually impossible. In the most unlikely event the Commission would ever grant a license to a person which the Council deems not fit and proper, it would be open to any member of the Government or Parliament to challenge the Commission’s decision in courts.

The following mechanism could therefore be recommended:

- The Commission publishes its decision to approve the granting, renewal, modifying or cancellation of a broadcasting license to a named applicant, as well as the rationale for its decision and the license it plans to issue.
- This decision will become definitive after two weeks unless it is successfully challenged in court.

It is appropriate to provide that licenses cannot be transferred or sold without the consent of the regulator, which can only be given if the new applicant is not disqualified and is committed to comply with the same license obligations. We therefore recommend to keep section c but amended as below.

Section e seeks to ensure a level playing field between Jordanian and foreign channels, as well as proper regulation of all satellite channels aimed at the kingdom’s audiences. It should however be developed in particular so as

- to create a lighter regulation regime for satellite channels since they do not use a scarce public resource. We note only the TRC not the MC is involved in the licensing.
- to determine which channels will be considered as “aimed at Jordanian audiences
- to determine how this provision will be enforced in practice”.

Comments have already been provided on Article 19 above.

Article 20 provides for the content of the license. It is broadly adequate but could be enriched to ensure it covers all essential matters and leaves less room for negotiation with the licensees on key matters.

In particular, the duration of the license and the conditions for renewal, if permitted should be set out in this article. Two cases should be envisaged; when the number of possible licenses is finite (terrestrial TV, FM radio) and when there is virtually no limit to the number of licenses that may be granted (satellite).

For satellite licenses, it is desirable to provide for an indefinite duration subject to provisions enabling the regulator to amend the license in compliance with new laws and bylaws, and to cancel the license should the licensee not meet its obligations (as provided for in the law).

For terrestrial licenses, granting indefinite licenses would not be fair for new entrants; nor would it be an efficient use of the public and scarce resource; an indefinite license would be akin to a privatization of a public good. Such licenses should therefore be for a finite term, set by law. The duration should be sufficient to enable an appropriate return on investment, at least 7 years, although shorter durations could be agreed, for instance with third tier licensees who want to provide a service limited in time by nature (e.g. a radio service for a refugee camp).

There should also be provisions to deal with the coming of a license to the end of its term. This is a very complex issue.

On the one hand, there could be a need for enabling new entrants to submit proposals and terrestrial licenses should not be indefinite in practice; on the other hand, where a licensee has done a good job, has always complied with its obligations and is appreciated by audiences, it should be allowed to continue providing the service and should not lose its business. One might argue that in reality if licenses are issued for the duration of 7 to 12 years, the world will have changed.

One option would be to provide that one year before the term of its license, the regulator, after public consultation suggests amendments to the conditions of the license they think appropriate to increase the quality of the service and promote the public interest. The incumbent will have their license renewed if the new conditions are accepted. Otherwise, a new open selection will be organized, to which the incumbent will be enabled to take part, but in competition with other applicants.

The fees should be of a nominal nature, and in any case higher than necessary to the cost of regulation. This is without prejudice of any payment to the TRC for access to a spectrum license nor of any taxes on benefits made by the licensees, in accordance with the general taxation of businesses.

Some provisions could be clarified to avoid giving open-ended powers to the regulator, and preventing any undue interference in the conduct of the broadcaster's business or content of its service. A good means of ensuring this does not happen is to provide for all such directions to be published, subject to consultation with the stakeholders, and be applicable to all in the same situation.

Whilst we understand the spirit of subsection m, it could be clarified to avoid having a chilling effect on broadcasters and journalists and create a self-censorship effect. One solution would be to delete those, and rely on the general duty to comply with all laws to ensure broadcasters do not broadcast material

which would fall under criminal law. If however, these provisions were to be maintained, it could be useful to add a provision providing for adequate protection of children so that they are not exposed to content which could be detrimental to them (violence and content of a sexual nature). It would also be necessary to add a provision to avoid as much as possible the chilling effect.

To summarize, the provisions to be inserted in the law to determine the conditions of the license and its content could be as follows.

Duration and renewal of the license

- Satellite licenses: indefinite subject to compliance with the licensee's obligations and the ability for the Commission to amend the license in compliance with new law.
- Terrestrial licenses: granted for a period of 7 (to 12) years.

One year before its term, the commission shall, after consultation with the licensee, stakeholders and the public, propose any amendments to the conditions of the license it thinks fit to promote the principles and objectives set out by law. If the licensee accepts these revised conditions within a period of three months, he will be granted a new license for a further period of 7 (to 12) years. Otherwise, he will lose its license at the end of its term. As soon as the commission has noted the refusal of the incumbent licensee to accept these revised conditions, it will start the re-advertising and selection process.

Conditions of the license: the law should provide that the licenses should contain conditions as follows

- i. Financial obligations
 - a. Fees due to the Commission against granting the broadcasting license, as well as its validity and renewal fees and any financial rights payable by the licensee. The fees should be such as to only cover the cost of regulation and should be set at the same level for each type of licensees.
 - b. Level of any fines payable by the licensee to the Commission in case of his breach of the terms of broadcasting license.
- ii. The licensee's commitments in relation to its relation with the commission
 - a. to comply with the terms of the licensing agreement as well as any instructions or decisions issued by the commission following consultation with the licensee, other affected parties and the public, and provided these decisions do not represent a substantial change in the license and are taken in order to foster the public interest;
 - b. to provide the facilities required by the competent authorities to practice their responsibilities;
 - c. to provide information and details related to broadcasting and re-broadcasting works required by the commission from time to time or periodically, which the commission officials should be enabled to examine to check the authenticity of

- these information and details;
- d. to cooperate with the Commission and the other licensees in the Audiovisual Media Sector as well as the telecommunication sector.
 - e. The license should also provide for the manner of resolving any dispute arising between the Commission and the licensee.;
- iii. Technical matters
- a. the right of the licensee to establish and install the towers and assemble the equipment, appliances and stations required for the broadcasting and re-broadcasting works inside the buildings and lands owned by others; as well as the procedures for the same and the principles and rules of agreement with the proprietor including the proprietor's right to request for compensation;
 - b. the licensee's commitment to comply with the Commission's technical specifications in relation to broadcast and re-broadcasting equipment;
 - c. the licensee's commitment to provide the requirements for transmission and retransmission works in terms of human resources, programs, places, fixtures, equipment, studios and stations.
- iv. Content of the service. The license should set out the licensee's commitment
- a. to honor the literary, technical and intellectual rights of others;
 - b. to respect human dignity and personality, freedom and rights of others, the pluralistic nature of expression of thoughts and ideas;
 - c. not to broadcast or re-broadcast all that which may violate public decency, incite hatred or terrorism or violence, or incite sectarian or racial disputes or anything that may undermine the national security;
 - d. to ensure that news on whatever form is reported with due accuracy and presented with due impartiality;
 - e. not to broadcast any media items or commercials that might mislead public, blackmail and deceive them;
 - f. to ensure that content which might seriously impair the physical, mental or moral development of minors is only made available in such a way as to ensure that minors will not normally hear or see it.
- v. General commitment to contribute to the development of the national industries pertaining to the national production of audio and visual materials.

There are no specific comments on **Article 21**.

Article 22 enables the government to exempt public institutions from the licensing fee provided they do not broadcast commercials. Whilst this is acceptable, care must be taken to avoid all available frequencies to be taken up by public bodies. Another, more transparent option should be to request public bodies to par the same charges as private companies, but to ensure that they are appropriately funded. This option will give them an incentive when they are reviewing their budgets to only keep a license if it delivers

value for money.

Article 23 deals with the situation where a licensee fails to provide the licensed service. This is a standard provision, necessary to ensure an efficient use of spectrum. It could however be useful to provide for prior warning of, and appropriate consultation with, the licensee. This would act as a reminder to the licensee, but so could get other potential applicants to think of the opportunity, and avoid losing more time should the license be re- advertised. Should the licensees not comply with their obligations, the license should be cancelled, and the licensing process start again.

There are no comments on **Article 24** as it is common practice to ensure that the public service broadcasters have sufficient access to spectrum and receive the appropriate licenses. However, it is recommended that, as a separate piece of work, a complete review of the public service broadcasting system is made to ensure its independence from government but also its ability to provide a universal service of quality, acting as a reference for the rest of the audiovisual sector.

Article 25 provides for the right to share material and equipment. Such cooperation can only lead to more diverse applications, coming from less wealthy companies, and help them spend more money on programs. Such arrangements should however therefore be known of the regulator which will ensure they do not lead to a lack of real independence of a licensee vis-a-vis another, hence decreasing pluralism.

4.4 Recorded materials

Articles 26 and 27 of the Law deal with ‘software/recorded materials’, defined in Article 2 as “any visual or audible item or both, recorded on any sort of technical means such as tapes, records, compact and digital discs as well as others.” They establishing a prior censorship regime for the importation of materials intended for broadcasting or circulation through other means. In addition, they state that the basis for approving the recorded materials as well as the terms for granting their circulation license shall be defined under a regulation. It is difficult to advise on the matter without considering the content of this regulation.

However, as a matter of principle, it is noted that such a censorship regime is very unlikely to fall within the parameters set by International standards to promote freedom of expression and information. As far as recorded materials coming from abroad to be distributed by means of a licensed service this control is entirely unnecessary since the licensee will take full responsibility for the content of its service. The provision should be deleted.

Whilst a deletion of these articles would be preferred, and the establishment of an a posteriori control, it could be considered as acceptable that recorded material, software games which are sold directly to the public are subject to a labeling mechanism ensuring that they carry any appropriate guidance to indicate if they should not be accessed by minors of a certain age. This labeling system should be determined by the Commission in agreement with the industry.

4.5 Punishment / enforcement

It is difficult to comment on the level of the fines, as set in **Articles 28 and 29**, and in the bylaw. However, as a general recommendation, the fines should not only be set as an absolute number but also in relation to the turnover of the licensee to have their full deterrent effect on the most wealthy licensees without over penalizing the less affluent ones, in particular local or community ones.

We welcome the amendments made in 2015, which remove the imprisonment penalties.

Article 30 is important as it gives to the Commission sufficient powers. However, this power should be exercised under judiciary control, and be limited in such a way that it does not give to the Commission the power of gaining access to journalistic sources. This should be reviewed to this effect.

Article 31 should be deleted as it could lead to a non-transparent and inappropriate negotiation between the Commission and the licensee.

The establishment of the Regulation of an Audio-Visual Complaints Committee which looks into complaints if there is a violation of the code of ethics is a very useful and a welcome step. The Committee may recommend that the General Director takes one of the following:

- a. Correction and replay
- b. Apology
- c. Deleting the material of the complaint

4.6 Final provisions

It is appropriate to set out clearly all bylaws which need to be taken as a result of the law, however, **Article 32** is a mere enumeration of the forthcoming bylaws, but does not give any indication as to their content nor adoption procedure. Whilst this could be sufficient, it would be more appropriate to give more detail as to the content of these bylaws in the legislation, following a public consultation.

In addition, and importantly the Law should give to the Commission a key role in their drafting. The mechanism, to be set out in the law, could be that the Commission holds consultations with stakeholders and then makes public recommendations to the Minister for these bylaws. This has been addressed in our recommendation on the licensing regime (Part III).

Part V: How to ensure a successful digital switchover in Jordan – a few recommendations

An overview of the international media framework would not be complete without mentioning radio spectrum regulation. The International Telecommunications Union, the world oldest international agency, set June 2015 as the deadline for 116 African and Asian countries (including all Arab countries) to switch from analogue to digital broadcasting.

Digital broadcasting in Jordan provides an opportunity for creating new television channels both at a national and at a regional or local level. In this context, it is essential that Jordan creates a licensing regime which ensures that the selection of these new services is transparent and based on a robust selection mechanism which ensures those who will best serve the interests of the Jordanian citizens and of the country as a whole.

5.1 Why switchover in Jordan

In many countries, the benefits of switchover (the move to digital television enabling to switch off analogue terrestrial television) are great for both citizens and the economy.

Indeed, in many countries that have already completed Digital Switchover (DSO), or are on the verge of completing it, DSO has brought many benefits:

To citizens:

- More television channels can be carried in less spectrum, with interactive data;
- More electronic communications services can be carried on freed up frequencies

To the economy:

- Free up frequencies are being used for increased availability of mobile broadband, which will boost the economy
- Their sale and use has or will generate useful proceeds for Treasury.

Broadcasters also benefited from switchover, albeit the benefits greatly varied. Incumbents were able to launch new services, creating a family of complementary services, but they also faced more competition whilst having to fund simulcasting their services on both digital and analogue for a period of time. For new entrants, launching a service only available on the new digital terrestrial platform was also difficult whilst consumers were only gradually taking up the service.

Now, Jordanian citizens already enjoy many television channels through satellite, which is the main means of receiving television for the very vast majority of households (c95%), and the only one for a very vast majority.

Jordanian broadcasters might benefit from lower fees on digital terrestrial than on satellite, so appropriately supported during the migration, they could benefit.

Since consumers will need to spend money to purchase equipment and install or upgrade their antenna, they are the main stakeholders to convince of the benefits of switchover to them. However, the number and variety of channels will not be an incentive since they can already receive lots of channels both Jordanian and international.

In addition, since very few people actually rely on terrestrial television, it could be envisaged to entirely switch off analogue television and free up the frequencies it uses.

However, there are very significant downsides to this approach:

- Jordanian audiovisual media would become entirely dependent on satellite broadcasting, and in particular on a satellite infrastructure based in a foreign country. In a period of unrest, this could create a national security issue.

- Satellite does not cover 100% of a country; there are areas where it is not available, in particular in mountainous areas. Consumers living there are less likely to have access to very good broadband enabling them to watch television, so they could left with no television at all.

- Services broadcast on satellite have a much wider footprint than Jordan, and therefore face very high fees in they want to broadcast international sports, series or movies. In order to watch this highly appreciated type of content, Jordanians will move to global channels, depriving Jordanian-based services from vital audience share and advertising.

Although creating a successful digital terrestrial platform will be more challenging than in some other countries, it will however be very beneficiary for Jordan. What is absolutely necessary is to plan it carefully and undertake a managed transition.

5.2 Preparing for a successful switchover

5.2.1 *Creating the right incentives for consumers*

As noted above, consumers are those who will have to spend their own money and upgrade their television and aerials with limited obvious benefits. They will therefore need either really attractive new services, or to be fully supported to make the change, ad potentially both.

The key difficulty is that the current Jordanian plan only provides for 4 television services. This is absolutely not sufficient to incentivize customers to make the move.

5.2.2 *Creating the right incentives for broadcasters*

Broadcasters currently pay high charges to provide their service on satellite. Terrestrial transmission will be cheaper for them. However, they will only make the move if they do not lose all their audience, that is if consumers take up digital terrestrial television (DTT).

5.2.3. *Appropriate spectrum plan*

To solve this issue, the TRC should be requested to plan for more digital multiplexes, using the entire spectrum that is allocated to Jordan. The spectrum plan should ensure that though the use of the most efficient planning and distribution technologies, a number of new services, both public and private, can benefit from access to airwaves.

With five or six multiplexes, all or nearly all the 40 or so Jordanian services currently on satellite could be accommodated on the DTT platform. It is our understanding that Jordan has only planned for one multiplex carrying only four services.

Why does Jordan not use its spectrum rights? How could the move to DTT be successful if it requires consumers to pay extra to receive only four services they can already receive on satellite? This seems to be the main issue with the current switchover plan.

5.3. *A carefully managed transition*

5.3.1. *Coordination between stakeholders*

The technical and social scale of preparation for digital switchover should not be underestimated. Comprehensive and long term planning will be vital. It is essential to set out at the start of the project a series of actions that need to be undertaken to ensure the switchover from analogue to digital television takes place; to identify who should lead on those issues and to set target dates for delivery.

Government, regulators, broadcasters, manufacturers, retailers and consumers all need to get involved and work together. With so many different parties, it might be useful for the government appoint a “digital czar”, chosen amongst highly respected individuals with a good knowledge of the media sector and of consumers issues. His role will be to lead the development of the above mentioned switchover plan, involving all stakeholders and ensure everyone will implement it in a coordinated way.

5.3.2. *An implementation body*

Once this plan is finalized and approved by government, it would be useful to set up an organization (SwitchCo), to be responsible for the effective completion of switchover. In particular, SwitchCo should:

- highlight the benefits of switchover;
- provide public information;
- provide support to consumers when switchover starts;
- make sure products are clearly labelled;
- work with all the interested parties.

Many interested parties - the Government, regulators, the broadcasters, manufacturers and retailers - will continue to have important roles to play in delivering switchover and must agree to the process. However, SwitchCo should be independent enough so it can represent the consumer effectively and avoid conflicts of interest.

The Government should make sure SwitchCo has enough resources to achieve its tasks. It will need funding for running costs, spending on marketing and consumer support around switchover. Funding could come from a number of possible sources including direct public spending as an advance on spectrum auction proceeds.

5.3.3. First necessary steps

Television sets and set-top boxes

As soon as practicable, the government should mandate the sale of digital television and ensure no more analogue only sets are sold in Jordan, as is already the case in many other countries.

Setting a firm date

At the same time, a firm timetable should be established which will give certainty

- to broadcasters and transmission companies for upgrading their transmission network
- to consumers who should be made that their analogue equipment will no longer work without an appropriate set-top box.
- to the equipment market (aerials installers, television manufacturers) so they get ready with appropriate equipment in stores and trained staff.

This date should be firm but achievable. It should ensure there is enough time for broadcasters and consumers to get ready, but there should be “moment of compulsion”, for both consumers and broadcasters, where the services stop.

5.3.4. Licensing the digital multiplexes

A spectrum plan should be established, making sure that through the use of the most efficient planning and distribution technologies, a number of new services, both public and private, can benefit from access to airwaves.

When this is done, the licenses should be allocated following a transparent selection process.

As explained above, licensing digital terrestrial requires two separate processes:

1. Licensing the multiplex¹⁶ operator: it will get a spectrum license for the frequency used, but will also need a license from the Audio-visual commission to regulated the services carried on it.
2. Licensing the services that go on the multiplexes. These are standard television (or radio, as DTT can carry radio stations too) licenses, with the exception that they do not require their own spectrum license so will have no relation with the spectrum regulator. All technical transmission matters will be dealt with by the multiplex licensee.

¹⁶ A multiplex is an error-protected bitstream of 24, 27 or 40 megabits per second, which can be used for almost any combination of digitally-encoded video, audio and data. It enables a number of services (between 7-10 Standard definition to 4-6 High definition television channels) to use the same bandwidth (8MHz) as a single analogue channel.

The law should determine whether the multiplex operator, once licensed, will choose itself how many and which services it carries (as per the UK law) or if the regulator will determine himself how many and which services it carries (as per the French law).

The following system could be recommended:

- TRC is required to plan for 5 or 6 national multiplexes and to consider also creating local multiplexes. Using the most up to date technologies the national multiplexes should be able to carry 6 High Definition (HD) services or 10-12 Standard D services each. Local multiplexes could also carry additional local services. The choice between HD and SD could be left to broadcasters. The most popular channels carrying sports and movies would require HD but smaller local services could find it easier to broadcast in SD. TRC might find useful to have discussions with spectrum planning experts from other countries who have already completed switchover.
- TRC communicates to the MC the number of national/ local multiplexes and available “channel slots” on each.
- The Government may decide to preempt one multiplex (or two maximum) for public service broadcasting. (including the one allocated to JRTV which may need to be re planned)
- TRC launches an invitation to apply for licenses to operate one or several of the remaining multiplexes (these licensees will be the people responsible for the transmission Network and the Multiplexing/ encoding system, enabling to combine the different services into one signal to send over the airwaves). The license should contain technical conditions on coverage/power etc. as well as conditions ensuring a fair treatment of the operators of the services carried.
- MC launches an invitation to apply for slots on these multiplexes. These operators will receive a “digital service license” which will be very similar to their analogue or satellite one except for the technical conditions on coverage.

5.4. Preparing for a successful switchover

5.4.1. *Creating the right incentives for consumers*

Content and services

As noted above, consumers are those who will have to spend their own money and upgrade their television and aerials with limited obvious benefits. They will therefore need either really attractive new services, or to be fully supported to make the change, and potentially both.

The strict minimum requirement is the ability to receive the most popular services.

Then, the ability to receive better services will definitely help. One argument is that the Jordanian services currently on satellite struggle to broadcast international sports and movies due to the very high costs of buying the rights for the whole satellite footprint would no longer face this restriction on DTT, covering only the Jordanian market. Another argument could be the availability of local and community services,

but it should be assumed that this will not be a major incentive.

Communication plan

Switchover should operate a communication plan ensuring everyone is aware of the switchover, when it happens, what they need to do and which support is available to them.

National advertising on public television and on private broadcasters operating the switch will help give early warning and drive overall awareness of switchover.

Support for the most vulnerable

Finally, if the government is convinced moving to DTT is the right thing for the country, it could provide support for consumers on low income, for instance for a service providing consumers with a free set top box and aerial as necessary. Conditions for eligibility will need to be decided by the government.

Once the vast majority of consumers is equipped, following the communication campaign and provision of appropriate support for vulnerable groups, it will be possible to switch off both analogue terrestrial channels and some of the satellite ones.

5.4.2. Creating the right incentives for broadcasters

Broadcasters who wish should be able to exchange their satellite license against a DTT one. They would certainly have to simulcast the services for a period of time to avoid losing satellite audiences whilst terrestrial take up increases. In exchange of stopping their satellite service in order to incentivize consumers to make the move, they could be offered reduced license fees for five years (as per the gradual mechanism in the draft bylaws).

In any case digital switchover is a complex task that requires careful planning and management in liaison with all the stakeholders.

ENDS

