

COMMUNICATIONS ACT

(Cap. 68:01)

COMMUNICATIONS (BROADCASTING) REGULATIONS, 2019

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IN EXERCISE of the powers conferred by section 200 of the Communications Act, I, NICHOLAS HARRY DAUSI, Minister of Information and Communications Technology, on recommendation from the Malawi Communications Regulatory Authority, hereby make the following Regulations—

PART I—PRELIMINARY

- Citation 1. These Regulations shall be cited as the Communications (Broadcasting) Regulations, 2019.
- Interpretation 2. In these Regulations, unless the context otherwise requires—
- “advertising” means the broadcasting of any content in return for payment or other valuable consideration to a broadcaster with the intention of—

- (a) selling to a viewer or listener, any product or service;
- (b) convincing a viewer or listener of a belief or course of action; or
- (c) promoting a product, service, belief, cause of action, person or organisation;

“audience” means people who listen or watch any broadcasting services;

“broadcasting service” means a service consisting of the diffusion of sound or television programmes for general reception by the public;

“broadcasting format” means the document describing the overall type or character of content output that a licensee is mandated to deliver as a condition of its licence;

“child” means persons below the age of eighteen years;

“community broadcasting service” means a broadcasting service which—

- (a) serves a particular community;
- (b) is carried on for non profitable purposes; and
- (c) is fully controlled by a non profit entity;

“coverage area” means the geographical area within which a licensee is supposed to provide its broadcasting service under its licence;

“content” means information in the form of sound, data, texts or images except where transmitted in private communications;

“content broadcasting” means any form of telecommunication intended for general reception by the public by means of receivers adapted for the purpose;

“content broadcasting licence” means a licence that authorises the provision of a broadcasting service;

“delay machine” means a device that enables a licensee to postpone, block or obliterate, obscene, unwanted or offensive content;

“election broadcast period” means the period declared by the Authority within which a licensee may transmit political election broadcast;

“election period” means the period commencing on the date on which the election day is proclaimed in accordance with the Parliamentary and Presidential Elections Act;

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“encryption” means the scrambling of television signal in a form that can only be accessed by authorised persons;

“family viewing” means a television broadcast suitable for both children and adults and does not contain, material depicting or relating to acts of brutality, violence, atrocities, drug abuse, obscenity, offensive language, nudity or explicit sexual conduct;

“free to air service” means a service which is broadcast without encryption and capable of being received on universal receivers without payment of any subscription by the end user to the licensee;

“frequency assignment” means the reservation of one or more radio frequencies for use by a particular person in accordance with National Band Plan;

“harmful interference” means any emission, radiation or induction that endangers the functioning or seriously degrades a communications system;

“hate messages” means a speech intended to degrade, intimidate or incite violence or prejudicial action against a person or group of people based on their race, gender, age, ethnicity, nationality, religion, gender identity, disability, language ability, moral or political views, socio-economic class, occupation or physical appearance, mental capacity and any other distinction that might be considered by some as a liability;

“infomercial” means any advertisement broadcast in visual or audio form, lasting for more than two minutes, which may contain demonstrations of the use of the product or service advertised;

“licensee” means the holder of a content broadcasting licence issued by the Authority;

“local content” means the total of all television or radio programmes that contain Malawian material;

“news adjacent” means an advertisement placed immediately before or immediately after a news bulletin;

“political advertisement” means a commercial intended or calculated to promote or advance any political agenda;

“political election broadcast” means an address or message broadcast free of charge on a licensee’s broadcasting service and which is intended or calculated to advance the interests of any particular political person or party;

“polling day” means the day on which voting in a general election commences in accordance with electoral laws;

“prime time” means time deemed to have the largest audience typically from 06:00 hours to 09:00 hours, 12:00 hours to 14:00 hours, and 17:00 hours to 21:00 hours or as otherwise determined by the Authority;

“programme” means a segment of content intended for broadcast on radio or television, it may be a one-time production or part of the periodically recurring series and may include, a news bulletins, current affairs, informative programming, interviews, panel discussions and phone in discussions;

“public broadcaster” means a licensee designated by the Authority under section 100 of the Act as a public content licensee;

“religious programme” means a programme that deals with matters

of religious beliefs or faith as the central subject or as a significant part of it;

“special event broadcast licence” means a temporary broadcasting licence with a validity period of not exceeding thirty (30) days;

“sponsored programme” means a programme that has all or part of its costs paid by a sponsor;

“subscription broadcasting service” means broadcasting service which transmits programmes by satellite or terrestrial or any other means whether by means of encoded or uncoded signals and is made available to persons on payment of a subscription fee;

“subscription management services” means a service which involves the provision of support services to a subscription broadcasting service which may include subscriber management support, subscription fee collection, call centres, sales and marketing, and technical and installation services; and

“watershed period” means a period as described under regulation 24, when a licensee may broadcast content rated as adult material.

3. These Regulations shall apply to the provision of content Application
broadcasting services in Malawi.

PART II—GENERAL PROVISIONS

4.—(1)A person shall not provide any broadcasting services without a Licence
licence issued by the Authority.

(2)A person shall apply for a broadcasting licence in a manner and form as prescribed by the Authority from time to time.

(3)An application made under subsection (2) shall be accompanied by a non-refundable application fee as prescribed by the Authority from time to time.

(4)An applicant for a content licence shall provide the following—

(a) an incorporation certificate;

(b) evidence of technical capacity in terms of personnel and equipment to carry out broadcasting services;

(c) evidence of relevant experience and expertise in broadcasting services;

(d) evidence of capacity to offer minimum continuous broadcasting services for the broadcasting licence category applied for;

(e) a proposed editorial policy and nature of the broadcasting service;

(f) proposed programme line up or schedule;

(g) complaints handling procedure;

(h) network plan and technical specifications of their equipment, including power;

- (i) where applicable the proposed location of their transmitter station;
- (j) specific geographical areas to be covered;
- (k) roll out plans;
- (l) staff development programme;
- (m) proof of financial ability and sustainability mechanisms;
- (n) Proposed broadcast format; and
- (o) Any other information as specified by the Authority.

Licence categories

5. The Authority shall issue the following content licences categories—
- (a) public content broadcasting licence;
 - (b) private content broadcasting licence;
 - (c) community content broadcasting licence;
 - (d) subscription management content broadcasting licence; and
 - (e) any other licence category determined by the authority from time to time.

Broadcasting licence fees and levies

- 6.—(1) In relation to broadcasting services, an applicant shall pay—
- (a) licence application fees;
 - (b) annual fees;
 - (c) annual levies;
 - (d) renewal fees;
 - (e) licence transfer fees; and
 - (f) any other fees related to provision of broadcasting services.

(2) Any person who fails to pay any fees prescribed by the Authority under subregulation (1) commits an offence.

Roll out obligations and extension

7.—(1) In line with the Act, any applicable Regulations and Guidelines, the Authority shall grant a successful applicant a broadcasting services licence and require the licensee to roll out its services within twelve (12) months for television and six (6) months for sound broadcasting service from the effective date of its license.

(2) The Authority shall not extend a licensee's roll out period, unless on grounds of force majeure.

(3) Where the Authority allows a roll out extension period in accordance with subregulation (2), the Authority may extend the roll out period for a maximum period of twelve months.

(4) Where a licensee fails to roll out its services within the period specified in its licence, the licence shall be deemed revoked.

Commencement of broadcasting service

8. A licensee shall, not later than fourteen days before commencement of broadcasting services publish a notice in a newspaper, with wide circulation in the licensee's coverage area, containing—

- (a) a statement on the licensee's intention to transmit a broadcasting service from a station as stipulated in its licence;
- (b) the commencement date and time of transmissions;
- (c) the assigned frequency or channel that the station shall operate from;
- (d) the station programming format;
- (e) a statement inviting the members of the public to contact the licensee in case any transmission by the licensee causes interference with the services provided by other licensees; and
- (f) the address and telephone number of the licensee.

9.—(1)The Authority may amend a licence on any of the following grounds— Amendment
of a licence

- (a) to ensure efficient management of the communication sector;
- (b) to comply with any international broadcasting standards; or
- (c) if so requested by the licensee as long as, in the opinion of the Authority, the amendment does not—
 - (i) not prejudice any other broadcaster;
 - (ii) not be inconsistent with the provisions of the Act or any other applicable Regulations; or
 - (iii) not impede fair competition between licensees.

(2)Before amending any provision of a licence, the Authority shall—

- (a) give the Licensee not less than seven (7) days' notice and publish a notice in the *Gazette* stating the amendment that it proposes to make and the reasons for it, and shall give any licensee or any person with an interest an opportunity to make representations concerning the proposed amendment; and
- (b) give due consideration to any representations made by the licensee or any person.

(3) A licensee or any person may submit a response to the proposed amendment within thirty days of the notice.

(4) If the Licensee does not respond within the thirty day period under this regulation, the amendment shall take effect on the thirtieth day after the date of notice.

(5) If the Authority receives a response from a licensee or any person, it shall consider the response and notify the licensee within thirty (30) days of the reply of its decision to either—

- (a) rescind the amendment;
- (b) modify the amendment; or
- (c) proceed with the proposed amendment in which case the amendment shall take effect on the fifteenth (15th) day after the date of the Authority's second notice.

Renewal of
licences

10.—(1) A licensee may, within a period of six months before the expiry of its licence apply to the Authority for the renewal of the licence in such manner as the Authority may prescribe.

(2) Where a licence is renewed, the licensee shall prior to the issuance of the licence pay such fees as the Authority may prescribe.

(3) In considering an application for renewal of a licence, the Authority shall take into account—

(a) the past conduct of the licensee, which shall include, but not limited to—

(i) level of compliance to the Act, Regulations, Rules, and licence conditions;

(ii) timeliness in payment of licence fees and levies; and

(iii) submission of information required by the Authority.

(b) the financial and technical capacity of the licensee to provide the services.

General
obligations
of licensees

11.—(1) A broadcasting licensee shall—

(a) meet high professional quality standards;

(b) contribute to the development of free and informed opinion;

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

(d) not discriminate on the basis of race, colour, sex, language, religion, political or other opinion, nationality, ethnic or social origin, age, disability, property, birth or other status; and

(e) not broadcast programmes which contain, promote or perpetuate hate messages or any prejudices against any person or groups of people.

(2) A licensee shall ensure editorial independence.

(3) A licensee shall respect copyright obligations in respect of any broadcast material.

(4) A licensee shall keep and store sound and video recordings of all programmes broadcast for a minimum period of three (3) months or for such further period as the Authority may direct.

(5) A licensee shall ensure provision of programming that is accessible to disabled persons.

(6) A licensee shall—

(a) annually file with the Authority information showing their station identity and any changes thereto;

(b) ensure that their station identity is unique and does not cause confusion;

(c) keep such records as the Authority may prescribe from time to time;

(d) reveal its station's identity at intervals of sixty (60) minutes during the period which broadcasts are made from that station;

(e) state, at least twice within a period of twenty-four hours, all the frequencies; and

(f) and channels on which the broadcasting station is licensed to operate state.

(7) In the case of free-to-air broadcasting services, the licensee shall ensure that—

(a) it provides the amount of local content as specified in the licence;

(b) it include news and information in its programming, as well as discussions on matters of national importance; and

(c) it adheres to any applicable code of conduct as well as its programming schedules.

12.—(1) The broadcast format submitted by a licensee on application of its licence, shall form part of its licence. Broadcast format

(2) A licensee shall ensure that it carries out its programming in conformity with its broadcast format.

(3) A licensee shall not change the overall character of its broadcast format without the written consent of the Authority.

(4) An application for consent under this regulation shall be in writing and shall include—

(a) the name of the licensee;

(b) the date on which the licensee was granted a licence by the Authority;

(c) the type of broadcasts which the licensee intends to conduct;

(d) the original broadcast format authorised by the Authority;

(e) any other information specified by the Authority.

(5) Where the Authority rejects an application made under this regulation, it shall furnish the licensee with reasons for its decision in writing within thirty (30) days from the application.

13.—(1) The Authority shall not issue a broadcasting licence to any person unless the person is registered under the relevant written law. Ownership of broadcasting services originating from Malawi

(2) A licensee shall ensure that its local shareholding at all times comply with local shareholding requirements prescribed by the Authority from time to time.

(3) A broadcasting licensee shall not transfer, assign or sell a licence granted to it or cede control in the operations of the licence or merge with another person or licensee without prior written approval of the Authority.

(4) A broadcasting licensee shall not in any way own or control a signal distribution licence, nor shall it hold a controlling interest in a signal distributing licence without prior approval of the Authority.

(5) A licensee shall not affect any changes to its ownership, control or proportion of its shareholding without giving notice to the Authority at least ninety (90) days prior to effecting such change.

(6) Notwithstanding subregulation (5), a licensee shall require prior written consent from the Authority for—

(a) any change in shareholding; or

(b) the acquisition by an existing shareholder of at least twenty five per cent (25%) of additional shares.

(7) The Authority shall notify the applicant of its acceptance or refusal to grant consent under subregulation(6) and where it refuses to grant the consent, the Authority shall state reasons for the refusal within sixty (60) days of receipt of the application for the consent.

(8) A notification of change in ownership made pursuant to sub regulation (5), shall state—

(a) the date when the intended transfer of ownership or part thereof is to be effected;

(b) the name and address of the acquirer;

(c) the names, nationality and addresses of persons who are in control of the business;

(d) any change in the name or address of the business; and

(e) any other information specified by the Authority.

(9) In considering an application for consent for transfer of ownership or change of person in control or change in shareholding of a broadcasting licensee, the Authority shall consider—

(a) the capacity of the acquiring entity to roll out the broadcasting services;

(b) the nature of broadcasting services and programming that the acquiring entity intends to roll out;

(c) the extent to which the allocated frequency resource(s) of the entity to be acquired have been utilized;

(d) the possible impact on promotion of pluralism and diversity that the transfer may have;

(e) the effect or impact of the transfer on competition or promotion of competition in the sector;

(f) whether the transfer conforms to any applicable sector policy;

(g) the past and current compliance record, relating to the conditions of the current licences, of the acquiring and acquired entities; and

(h) any other matter as the Authority may consider relevant.

(10) For purposes of this regulation, any transfer of more than fifty percent (50%) of shareholding shall be construed as a licence transfer.

14.—(1)A licensee shall—

Complaint
management

(a) on commencement of its broadcasting services or such extended period as the Authority may allow, design its public complaints handling guidelines; and

(b) submit the guidelines to the Authority for approval at least thirty (30) days before the said commencement.

(2) A licensee shall designate a person or persons of sufficient seniority and competence to deal with any complaints concerning the licensee's public sound broadcasts.

(3) A licensee shall inform the Authority in writing of the name or names of such person or persons under this regulation.

(4) A licensee shall, at least once a day during prime time, broadcast information to the public on how to lodge complaints about its programming and such broadcasts shall include a notice that members of the public have a right to complain directly to the Authority.

(5) A licensee shall comply with the Authority's complaints handling and adjudication procedures.

(6) A licensee shall, on quarterly basis, submit to the Authority, a written report of all complaints received and how they were addressed by the licensee in accordance with any guidelines issued by the Authority.

(7) A person who has lodged a complaint to a licensee, may lodge the complaint to the Authority where the complainant—

(a) has not received a response within fourteen (14) days after making the complaint; or

(b) is not satisfied with the response from the licensee.

15.—(1)A licensee shall ensure that it conforms with the technical standards as prescribed in its licence.

Technical
standard
obligations

(2) The Authority shall conduct annual technical audits on a licensee to ensure compliance with this regulation.

PART III—BROADCASTING SERVICES

16.—(1)A public broadcaster shall—

Public
broadcasting

(a) provide independent and impartial broadcasting services of information, education and entertainment in English and Chichewa and such other languages as the broadcaster may decide;

(b) conduct the broadcasting services impartially and consider to the interests and susceptibilities of the different communities in Malawi; and

(c) provide and receive from other persons material to be broadcast: Provided that in acquiring such material, the public broadcaster shall have regard to the need to maintain the distinctive character of the public broadcasting service and to cater for the expectations of audiences who are not generally catered for by other broadcasting services.

(2) A public broadcaster service shall be supported by revenues from grants, donations and its commercial services.

(3) A public broadcaster shall not lease or transfer the broadcast frequencies or channels assigned to it for use in public broadcasting.

(4) The Authority may, on application by a public broadcaster, grant the public broadcaster a licence to provide broadcasting services on a commercial basis.

(5) Where a public broadcaster is granted a licence to provide broadcasting services on a commercial basis, the Authority may require the public broadcaster to maintain and keep separate accounts for its public and commercial broadcasting services.

(6) A public broadcaster may, enter into a private arrangement with any person for the provision of its commercial services:

Provided that any private arrangement entered into pursuant to this subregulation complies with any other relevant written laws.

(7) The Authority shall give priority and ensure equitable allocation of resources for public broadcasting services.

(8) A public broadcaster shall ensure, as far as is reasonably possible, that its programmes—

- (a) include content from diverse sources;
- (b) serve the needs of different audiences;
- (c) are transmitted at appropriate times, in order to take into account children who may be watching, or listening to, such programmes;
- (d) are accurate, fair and impartial;
- (e) do not contain any content expressing the opinion of the presenter on current affairs or matters of public interest;
- (f) do not offend religious views and beliefs of others;
- (g) disseminate content that inform, educate and entertain the general public;
- (h) reflect cultural diversity of Malawi; and
- (i) any other condition specified by the Authority from time to time.

Private
commercial
broadcasting

17.—(1) A private broadcasting licensee providing commercial free-to air broadcasting service shall—

- (a) be issued with a broadcasting service licence which shall include the frequency or channel licence for each broadcast station that utilizes a frequency or channel resource;
- (b) provide a diverse range of programming that reflects the identity, needs and aspirations of people in its broadcasting area;
- (c) where the commercial broadcaster provides national coverage, be required, without prejudice to paragraphs (a) and (b) to provide programming that reflects the identity and needs of the people of Malawi; and

(d) not acquire exclusive rights for the non-commercial broadcast of national events identified to be of public interest as may be determined by the Authority from time to time.

(2) The Authority shall, in consultation with the Minister, license foreign commercial content broadcasters, subject to availability of frequencies or channels.

(3) A commercial content broadcasting licensee shall ensure that advertisements are broadcast in the allotted breaks in a programme and in the interval between the end of one programme and the beginning of another.

(4) A commercial content broadcasting licensee shall keep records of all its broadcasts for forty five (45) days for inspection by the Authority during business hours.

(5) Where the Authority intends to inspect the records of a licensee, the Authority shall give notice thereof to the licensee not less than twenty four (24) hours before the proposed date of such inspection.

18.—(1) The Authority may issue a community content licence to any group of persons in accordance with these Regulations.

Community
content
licence

(2) A community content licence may be classified into the following categories—

(a) geographical community content licence which shall be—

(i) based on distance of coverage as determined by the Authority from time to time; and

(ii) limited to the provision of sound community broadcasting services.

(b) community of interest licence shall serve a particular community with a common interest as determined by the Authority from time to time.

(3) A community content licensee shall—

(a) ensure that its programming reflects the needs of the people in the community which shall include social, economic, cultural, religious, language, environmental, educational and demographic needs;

(b) deal specifically with community issues which are not normally dealt with by other broadcasting services covering the same area; and

(c) be informational, educational and entertaining in nature; and

(d) provide a distinct broadcasting service that highlights community issues.

(4) The Authority shall, through the frequency plan, ensure that an equitable number of frequencies or channels are reserved for community broadcasting.

(5) A community broadcaster shall ensure that all the funds generated

from the operations of a community broadcasting station are reinvested in activities benefiting the community.

(6) The Authority shall monitor community broadcasters to ensure compliance with subregulation (5).

(7) The Authority shall allow community content to advertise, on their stations, adverts that are relevant and specific to that community within the broadcast coverage area.

(8) A community content licensee shall broadcast the following—

(a) community programming; husband;

(b) announcements promoting community development projects;

(c) community service announcements;

(d) information programmes funded by community service organisations or the Government;

(e) announcements providing information about the programmes to be broadcast on the community content service channel;

(f) commercial broadcasts that mention or display, in the course of community programming issues relating to a community event—

(i) the name of a person sponsoring the community event; or

(ii) the goods, services or activities sold or promoted by a person sponsoring the community event; or

(g) oral or written acknowledgements in community programming that mentions the name of a person, the goods, services or activities sold or promoted by the person and the person's address and telephone number, where the person provides—

(i) financial assistance for the community programming in (i) which the acknowledgement is contained; or

(ii) goods or services free of charge to the licensee, for use in connection with the production of the community programming in which the acknowledgement is contained.

(9) A community content broadcasting licensee shall be managed and controlled by a board comprising of representatives of the community.

(10) A community content licensee shall invest all surplus funds derived from the running of a community broadcasting for the benefit of the community.

(11) The Authority may conduct a public inquiry to determine priorities, within the community, viability and impact of community broadcasting service.

(12) A community broadcasting licensee shall ensure that its services are—

(a) available to the members of the community so that they can participate in the programmes, express their needs and wants or discuss issues of interest relating to their own community, allowing for community development;

(b) based within the community which it is serving or at a strategic location or the community of interest and be equally accessible by the entire community so that community members can reach the station and benefit from it;

(c) affordable to the community;

(d) acceptable to the community; and

(e) accountable to the community that it serves.

19.—(1) The Authority may upon application, in the prescribed form, grant subscription broadcasting services licence for—

Subscription
broadcasting
and
subscription
management
services

(a) subscription broadcasting; and

(b) subscription management services.

(2) The Authority may require a licensee granted a licence under subregulation (1) to—

(a) distribute broadcasting services, whether through cable or satellite within Malawi;

(b) provide a prescribed minimum number of Malawian broadcasting channels; and

(c) provide diversity in programming.

(3) Notwithstanding subregulation (1) and (2), a satellite subscription broadcasting service provider whose signal originates from outside Malawi and who intends to provide its broadcasting services in Malawi shall provide such services through a person with a subscription management service licence.

(4) The Authority may require a subscription management service licensee to provide the following services on behalf of a satellite provider broadcasting from outside Malawi—

(a) subscription fee collection;

(b) marketing and sales;

(c) technical and installation support;

(d) operation of a national call centre;

(e) guarantees of quality of service and customer protection; and

(f) any other services as the Authority may require.

(5) A subscription management services licensee shall be required to have minimum local equity participation of twenty per cent (20%) or as prescribed by the Authority from time to time.

(6) A subscription broadcasting service or subscription management services licensee shall ensure—

(a) protection of subscribers interest on all issues related to packages, subscription options;

(b) fault repair;

(c) subscriber privacy; and

(d) credit management and billing such as compensation for services not rendered

Obligations for
subscription
content
services
licensees and
subscription
management
services

20.—(1) A subscription content broadcasting service or subscription management services licensee shall provide a subscriber with information, in writing, relating to the—

(a) products and services offered;

(b) cost of subscription including installation and maintenance;

(c) options of programming service available;

(d) service level agreements relating to the supply of its services;

(e) instructions regarding to usage of the service in the official languages;

(f) number and allocation of channels carried on the system and the programming available on each channel;

(g) billing and complaints procedures;

(h) address and telephone number of the licensee's business office; and

(i) any other information as determined by the Authority from time to time.

(3) A subscription broadcasting service or subscription management services licensee shall ensure that the service level agreement in sub regulation (2), is submitted to the Authority for approval within thirty (30) days for existing licensees or within thirty days of issuance of licence for new licensees.

(4) A subscription broadcasting service or subscription management services licensee shall provide its subscribers—

(a) at least fourteen (14) days notice before effecting any changes in the programming service or channel allocation, in writing; and

(b) technical means that parents or guardians may use to control access to broadcast content that is accessible and that they may consider inappropriate for certain audiences.

(5) A subscription broadcasting service or subscription management services licensee shall not acquire exclusive rights for the broadcast of national sporting events, or any event which is classified to be in the public interest by the Authority from time to time.

(6) A subscription broadcasting service or subscription management services licensee shall ensure the provision of "free to air" broadcasting services on its bouquet as determined by the Authority.

(7) A subscription broadcasting service or subscription management services licensee shall ensure that it carries on its bouquet for free, public broadcasting services as determined by the Authority from time to time.

(8) A subscription broadcasting service or subscription management

services licensee shall for the purposes of monitoring by the Authority—

(a) issue the Authority its services and equipment including decoders, antennas, poles and accessories for each programme channel on their bouquet;

(b) avail the Authority the viewing of all channels at all times; and

(c) ensure that the equipment availed to the Authority is on permanent free subscription.

(9) A subscription broadcasting service or subscription management services licensee shall ensure that their standard decoders have the ability to accommodate conditional access, electronic programme guide and access programme input systems of operation.

(10) A subscription broadcasting service or subscription management services licensee shall ensure that decoders for terrestrial licensees are non-proprietary.

(11) The Authority reserves the right to type-approve all broadcast decoders brought into Malawi.

21.—(1) The Authority may issue a special event broadcasting licence to any person for any event not lasting for more than thirty (30) days.

Special event
broadcasting

(2) The Authority may issue a special event broadcasting licence for broadcasts—

(a) that are conducted in partnership with a foreign broadcaster; and

(b) that the Authority may determine from time to time.

(3) The Authority shall issue a special event licence on the following conditions—

(a) that its application be made not less than thirty (30) working days before the event for which the licence is applied for, takes place;

(b) on payment of special event licence fee as shall be prescribed by the Authority;

(c) that it shall not broadcast any political content; or

(d) any other conditions specified by the Authority from time to time

(4) Any application under this regulation shall be in writing and shall contain the following particulars—

(a) the name of the applicant;

(b) the type of broadcasts which the applicant intends to conduct; and

(c) any other information specified by the Authority from time to time

(5) Where the Authority rejects any application under this regulation it shall furnish the applicant with reasons for its decision in writing within sixty (60) days of application.

PART IV—CONTENT SERVICES

General content
broadcasting
requirements

22.—(1) A licensee shall not broadcast content that—

(a) contains the use of offensive, abusive or inflammatory language and profanity;

(b) presents sexual matters in an explicit and offensive manner;

(c) glorifies violence or depicts violence in an offensive manner;

(d) is likely to incite or perpetuate hatred, vilify any person or section of the community, on account of the race, ethnicity, nationality, gender, sexual preference, age, disability, religion or culture of that person or section of the community; or

(e) has no programme rating from the Authority indicated prior to the commencement of such programme.

Protection of
children

23.—(1) A licensee shall ensure that due care and sensitivity is exercised when presenting content which may disturb or be harmful to children, particularly content that depicts or relates to—

(a) acts of brutality, violence, atrocities, drug abuse or obscenity, nudity or offensive language;

(b) explicit sexual or violent conduct; and

(c) music containing sexually explicit lyrics or music which depicts violence,

at times when large numbers of children may be expected to be watching television or listening to radio.

(2) A licensee shall take into account any determination made by the Authority on the proportion of the audience that is made up by children at a given time, when determining whether a large number of children are watching or listening to any programme.

(3) A licensee shall provide advisory assistance about programming which shall include guidelines to age suitability and whether such broadcasts contain nudity, violence, sexual conduct or offensive language, at the beginning of a broadcast and whenever necessary, in accordance with the First Schedule, to assist audiences make informed choices about whether or not a programme is suitable for children.

Watershed

24.—(1) The watershed period shall commence from 10:30 pm to 04:30 am or any other such time as determined by the Authority from time to time.

(2) A licensee shall not broadcast programme material, including promotional material, which is unsuitable for children and contains among others, illicit drug use, nudity, explicit sexual conduct, violence or offensive language unless such broadcast is within the watershed period.

(3) A licensee shall ensure that programmes that are more unsuitable for children are broadcast later after the commencement of the watershed period.

(4) A licensee shall ensure that children's programmes are not broadcast during the watershed period and in any event licensees shall ensure that the

timing of children's programmes does not coincide with normal school hours except for education programmes which the children can watch or listen to during school hours.

(5) A licensee and the Authority shall carry out activities to ensure that the general public is made aware and sensitized on the watershed period.

25.—(1) A licensee, where applicable, and having particular regard to the protection of children, shall classify its programmes to indicate the appropriate age restriction for viewing or listening to a programme in accordance with the First Schedule to assist audiences in choosing programmes. Audience advisories

(2) The Authority may, from time to time, review the First Schedule to conform with any other relevant laws of the Malawi and international best practices and make recommendations to the Minister for amendment.

(3) A licensee shall ensure that classification of any programme that it broadcasts but is packaged outside of Malawi is in line with the First Schedule.

(4) A licensee shall not broadcast any programme other than a family viewing programme unless it clearly and consistently indicates the programme's classification under these Regulations.

(5) A licensee shall ensure that classification of its programmes is made as follows—

(a) as announcements at the beginning of broadcasts and whenever necessary;

(b) in its programme guide; or

(c) in any advertising and promotional materials for the concerned programme.

(6) A licensee shall, from time to time and whenever requested by the Authority, furnish its programme schedule indicating the classifications of its programmes.

(7) A licensee shall advise its audience in advance of scenes of extreme violence or graphic representations of delicate subject matter such as sexual assault or court action related to sexual crimes, particularly during afternoon or early evening newscasts and updates when children would likely be in the audience.

(8) A licensee shall employ discretion in the use of explicit or graphic language related to stories of destruction, accidents or sexual violence, which could disturb children and sensitive audiences.

(9) A licensee shall not broadcast any content which when judged within a context, contains scenes (simulated or real) of any of the following—

(a) child pornography as defined in the Electronic Transactions and Cyber Security Act;

(b) bestiality;

(c) sexual conduct which degrades a person in the sense that it

advocates a particular form of hatred based on gender and which constitutes incitement to cause harm;

(d) explicit sexual conduct;

(e) explicit extreme violence or the explicit effects thereof; or

(f) explicit infliction of domestic violence.

Broadcast of news reports

26.—(1) A licensee shall ensure that news and information are broadcast and presented in an accurate, truthful fair and balanced manner, without prejudice or negligent departure from facts through distortion, exaggeration, misrepresentation and material omissions regardless of its context and importance.

(2) Where a licensee, in the course of broadcasting news reports, containing an allegation against any person, the licensee shall ensure that the person is given the opportunity to reply to such allegations.

Broadcast of unconfirmed reports

27.—(1) A licensee shall ensure that reports or broadcast from its station are based on facts and that are not founded on opinion, rumour supposition, or allegation unless the broadcast is presented in such a manner as to indicate clearly that such is the case.

(2) Notwithstanding this regulation, a licensee shall not broadcast any report where there is sufficient reason to doubt its accuracy and it is not possible to verify the accuracy of the report before it is broadcast.

Correction of errors in reports

28.—(1) Where it subsequently turns out that a broadcast report by a licensee was incorrect in some material aspect, including factual errors, the licensee shall immediately rectify it.

(2) A licensee shall conduct a rectification broadcast pursuant to subregulation (1)—

(a) without reservation, as soon as is reasonably possible and not later than forty eight (48) hours after the error has been committed; and

(b) with such degree of prominence and timing that shall be adequate and fair so as to easily attract attention or during a similar time-slot as the original error as soon as is reasonably possible and shall include an apology.

Reporting on controversial issues

29. A licensee shall ensure that when broadcasting controversial issues of public interest during any programme including live broadcasts—

(a) a wide range of views and opinions are represented;

(b) a person or organisation whose views on any controversial issues of public interest have been criticised during a broadcast, and who wishes to reply to such criticism is given an opportunity by the licensee to reply to such criticism within a reasonable time; and

(c) a reply to criticism under paragraph (b) is given a similar degree of prominence and shall be broadcast on a similar time-slot, as soon as is reasonably possible.

Live broadcasts

30.—(1) A licensee shall not conduct any live broadcasts without the aid of a delay machine.

(2) A licensee, or its employee shall not broadcast live any matter which—

(a) offends public morals;

(b) contains the frequent use of offensive, abusive and inflammatory language;

(c) presents sexual matters in an explicit and offensive manner; and

(d) is likely to incite or perpetuate hatred or vilify any person or section of the society on account of race, ethnicity, nationality, gender, sexual preference, age, disability, religion, culture or any other status of that person or section of the society.

31.—(1) A licensee shall ensure that any person who is to be interviewed in any of the licensee's broadcast is— Conduct of interviews

(a) advised of the subject of the interview; and

(b) informed before the interview takes place whether the interview is to be recorded or broadcast live.

(2) A licensee shall not conduct an interview with a child unless with prior permission to do so from the child's parents or guardians.

(3) A licensee shall exercise sensitivity when conducting interviews with bereaved persons, survivors or witnesses of traumatic incidents.

32. A licensee shall ensure that any of its commentaries broadcast, whether made as comments by it or by any person invited by a licensee, are presented in a manner that clearly indicates that they are based on facts which are clearly stated. Commentaries

33.—(1) A licensee shall not disclose, in a broadcast, the identity of— Sexual offences

(a) a victim of a sexual offence unless such victim consents in writing to the disclosure of his or her identity; and

(b) a child where such child is a perpetrator of a sexual offence.

(2) A licensee shall avoid the use of unnecessary or repetitive detail when broadcasting the circumstances of a sexual offence.

34. A licensee shall not broadcast any information acquired from a person without that person's consent, unless the information so acquired is essential to establish the credibility and authority of a source, or where the information is clearly in the public interest. Consent to broadcast

35. A licensee shall properly credits or acknowledge the sources of special reports or content in a programme in the end credit. Programme credit or attribution

36.—(1) A licensee shall not broadcast or re-broadcast any content without the express permission of the rights owner. Piracy

(2) A licensee relaying any local or foreign programme shall ensure proper acquisition of such programme.

37.—(1) Where a licensee has received sponsorship from any person to air a programme the licensee shall— Programme sponsorship

(a) retain ultimate editorial control of any sponsored programme;
and

(b) ensure that sponsorship of an informative programme does not compromise the accuracy and impartiality of the content of the programme.

(2) A licensee shall not unreasonably discriminate against any particular sponsor.

(3) A licensee shall clearly acknowledge sponsorship of a programme immediately before and after the programme broadcast.

Advertisements

38.—(1) A licensee shall ensure that its broadcast advertisements are—

(a) lawful;

(b) decent;

(c) in conformity with the principles of fair competition;

(d) sensitive to gender, culture, religion and age; and

(e) prepared with a sense of responsibility to the audience.

(2) A licensee shall ensure that advertisements broadcast by its station do not—

(a) contain any descriptions, claims or other material which may, directly or by implication, mislead members of the public in relation to the product or service advertised, or about its suitability for the purpose recommended; and

(b) unfairly attack or discredit, directly or by implication, any other advertisers, products or advertisements.

(3) A licensee shall, before broadcasting an advertisement, take all reasonable steps to ensure that any descriptions or claims in the advertisement have been adequately substantiated by the advertiser.

(4) A licensee shall not unreasonably discriminate against or favour any advertiser.

Scheduling of advertisements

39.—(1) A licensee shall exercise responsible judgment when scheduling advertisements that may be unsuitable for children.

(2) A licensee shall ensure that—

(a) any advertising breaks are clearly distinguishable from broadcast programmes; and

(b) its presenters, when reading advertisements, make a clear distinction between the programming material and the advertisements.

40.—(1) A licensee shall not broadcast an infomercial—

(a) for a period exceeding four (4) hours of the performance period in any day;

(b) during prime-time; or

(c) during any break in the transmission of a children's programme.

(2) A licensee shall ensure, through visual or audio form, that the broadcast of any infomercial is distinguishable from any broadcast programme material.

(3) A licensee shall take all reasonable steps to ensure that all infomercials are—

- (a) lawful;
- (b) decent;
- (c) in conformity with the principles of fair competition;
- (d) sensitive to gender, culture, religion and age; and
- (e) prepared with a sense of responsibility to the audience.

(4) The provisions of sub-regulations (1) and (2) shall not apply to stations which exclusively broadcast infomercials.

41.—(1) A licensee shall inform the public during a broadcast the full cost of a telephone call or short message service, where the audiences are invited on air to react or participate in a programme or competition. Competitions and audience participation

(2) A licensee shall ensure that audiences who are invited to compete in any competition are made aware on air of the rules of the competition as well as the closing date and the manner in which the winner will be determined.

42. A licensee shall not knowingly pay any person involved in a crime or any person who has been convicted of a criminal offence, in order to obtain information. Payment of criminals

43.—(1) For the purposes of this regulation, local content shall mean content — Local content

- (a) made by authors, producers and persons who are Malawians;
- (b) produced under the creative control of Malawians;
- (c) whose production is supervised and actually controlled by one or more producers established in Malawi;
- (d) whose contribution in a co-production is not controlled by one or more producers based outside Malawi; or
- (e) whose production originates from any other country and the production is made exclusively by Malawians or in co-production with non-Malawians in that country.

(2) A licensee shall, within a period specified by the Authority, comply with the requirements on broadcasting of minimum local content as specified in the Second Schedule.

(3) In monitoring compliance with the minimum local content requirement, the Authority shall measure the weekly prescribed average percentage of a licensee's programming, measured over a period of a year.

(4) Subregulation (2) shall not apply to news broadcasts.

(5) Unless otherwise stated by the Authority, local news shall constitute the majority of a licensee's news broadcast content.

(6) A licensee shall promote local content by providing a wide range of programming that reflects Malawian attitudes, opinions, ideas, values and artistic creativity by displaying Malawian culture and entertainment programmes.

(7) A licensee shall endeavour to get twenty percent (20%) of its local content from the local producers.

(8) A licensee who contravenes this regulation commits an offence and the Authority reserves the right to invoke any applicable regulatory sanction including payment of such amount of money as determined by the Authority into the Universal Service Fund.

Harmful
interference

44. Where applicable, a licensee shall ensure that it transmits—

(a) within its frequency assignment without causing harmful interference to other spectrum users; and

(b) in accordance with any technical specification prescribed by the Authority.

Content for
people living
with disabilities

45.—(1) The Authority shall require broadcasters to take specific steps to promote the understanding and enjoyment of programmes transmitted through its stations by persons living with disabilities and in particular, persons with hearing or visual impairment.

(2) The Authority may make rules, pursuant to section 201 of the Act, to prescribe the manner in which, time when, and percentage of, programmes targeting persons living with disabilities shall be broadcast.

PART V—POLITICAL ELECTION BROADCAST

Political
election
broadcast

46.—(1) The Authority shall, not later than three (3) months before an election, announce and publish the commencement of the election broadcast period which shall end forty eight hours before polling day.

(2) A licensee shall only broadcast political election broadcast during the election broadcast period.

(3) A party or a person that intends to carry out a pre-recorded political election broadcast shall submit the broadcast to the licensee at least five (5) days prior to the broadcast.

(4) A public content broadcasting licensee shall carry out political election broadcast during an election broadcast period.

(5) A licensee who conducts a political election broadcast shall ensure that its broadcast conforms to the Authority's standards as provided in the Third Schedule.

(6) A licensee shall not in any way edit or alter the content of a pre-recorded political election broadcast submitted to it under this regulation.

(7) A licensee may reject the carrying out of a political election broadcast where the broadcast—

(a) is in contravention of the Act, regulations made thereunder, or any other written law; or

(b) contains any content or material that is calculated or is likely to provoke or incite any unlawful, illegal or criminal act, or that may be perceived as condoning or supporting any such act.

(8) A licensee that rejects a political election broadcast submitted to it by a party or any person for broadcast shall, within twenty four (24) hours of such rejection, furnish the person who submitted the rejected broadcast with written reasons for the rejection.

(9) Any person aggrieved by the rejection of a political election broadcast by a licensee may, within forty eight (48) hours of receipt of the rejection, appeal to the Authority for determination.

(10) The Authority shall determine the appeal under subregulation (9) within seven (7) days of receipt of the appeal.

(11) The Authority may make interim orders which it deems fit pending final disposal of the appeal lodged under subregulation (9).

(12) The Authority shall consult the Electoral Commission on any matter related to political election broadcast.

(13) A licensee shall not transmit a political election broadcast for more than five minutes.

(14) A licensee shall ensure that a political election broadcast does not contain any material which may reasonably be anticipated to expose the broadcasting licensee to legal liability if such material were to be broadcast.

(15) A licensee shall not transmit political election broadcast later than forty eight (48) hours prior to the commencement of the poll.

(16) A licensee shall not transmit political election broadcast after the end of the election period.

(17) A licensee shall ensure that political election broadcasts transmitted by it are clearly identified as political election broadcasts.

(18) A licensee shall ensure that political election broadcasts transmitted by it are identified or announced in a similar manner both at their introduction and at their conclusion.

(19) A licensee shall not transmit a political election broadcast immediately before or after another political election broadcast or immediately before and after a political advertisement.

(20) A licensee shall not broadcast any programme which has been sponsored by a political party save for an advertisement by a political party in which case the advert shall be distinctly identified so as not to be confused with normal programming.

(21) Other than a public broadcaster, a licensee may broadcast political election broadcasts, if they elect to do so and the preceding provisions of this regulation shall apply.

Broadcast during election period

47.—(1) During an election period, a licensee shall—

(a) provide equitable coverage and opportunities to registered political parties participating in an election and in particular to presidential candidates;

(b) ensure that the name of the political party or sponsor, if any, on whose behalf a broadcast is made, is announced, immediately before the commencement and immediately after such broadcast; and

(c) ensure that the employees of a licensee who wish to be candidates for any elective position(s) resign from their employment with the licensee during polling period.

Political advertisements

48.—(1) A licensee shall not broadcast political advertisement, unless it accords all other political persons, who so request, similar opportunity.

(2) A licensee shall not discriminate against any political person or make or give any preference to any political person or subject any political person to any prejudice in making advertising time available to political persons.

(3) A licensee shall not broadcast party advertisement later than forty eight (48) hours prior to the polling day.

(4) A licensee shall not broadcast a political advertisement after the end of the election period.

Equitable treatment of political persons during election period

49.—(1) Where a licensee opts to cover elections issues, it shall ensure that all political parties, candidates and electoral issues are treated equitably.

(2) Where, during a political election broadcast, a criticism has been levelled against a political party or a candidate, the licensee shall accord such party or candidate an opportunity to respond in the same platform whether at the same time or later:

Provided that where the opportunity to respond has been deferred to a later time, it shall be accorded not later than twenty-four (24) hours after the first broadcast.

PART VI—MISCELLANEOUS PROVISIONS

Monitoring and enforcement of licensees

50.—(1) The Authority shall monitor compliance of licensees with terms and conditions of Act, these Regulations and licences using any means including through—

(a) electronic monitoring means;

(b) annual audits;

(c) surveys;

(d) complaints lodged to it in accordance with these Regulations; or

(e) any other method deemed necessary by the Authority.

(2) The Authority may hold public hearings on any matter relating to the monitoring and enforcement of these Regulations.

(3) Before the Authority imposes any regulatory sanction on a licensee

for failure to comply with the provisions of the Act, these Regulations or terms and conditions of its or the licence, it shall—

- (a) notify the licensee in writing;
- (b) invite the licensee for a hearing; and
- (c) invite the licensee to make representations on the matter.

(4) Where the Authority, subject to subregulation (3), is satisfied that the licensee has contravened the Act, these Regulations or terms and conditions of its licence, it shall inform the licensee of its findings and shall publish the findings as well as its reasons.

(5) Notwithstanding subregulation (3), the Authority may make an interim order requiring the licensee to immediately cease and desist any broadcast that the Authority deems to be in contravention with the Act, these Regulations or the licence pending a full hearing of the matter.

51. The Authority may, from time to time, issue guidelines in respect of any regulatory matter under these Regulations.

Issuance of
guidelines

52.—(1) A person who contravenes any provisions of these Regulations commits an offence and shall, upon conviction, be liable to a fine of K5,000,000 and imprisonment for five (5) years.

Penalties and
fines

(2) Notwithstanding the criminal sanctions under sub regulation (1), the Authority reserves the right to impose regulatory sanctions for any contravention of any provision under these Regulations including—

- (a) warning;
- (b) imposing a fine appropriate to the effects of the non-compliance or as specified in Fourth Schedule;
- (c) suspension;
- (d) issue a cease and desist order;
- (e) issue a compliance order;
- (f) issue an order requiring the licensee to broadcast—
 - (i) a correction
 - (ii) an alternative version; or
 - (iii) a balanced opinion;
- (g) revoke the licence; and
- (h) any other sanction as the Authority deems appropriate.

(3) The Authority may, from time to time, make recommendations to the Minister for amendments to the Fourth Schedule.

(4) A licensee shall pay to the Authority any fine or penalty imposed on it in terms of these Regulations within thirty (30) days of service of the order to pay the penalties.

(5) A licensee who fails to pay a fine or penalty imposed by the Authority under these Regulations shall be liable to—

(a) pay interest on the fine or penalty at the ruling bank base lending rate plus two percent (2%);

(b) any other regulatory sanction as determined by the Authority.

Revocation

53. The Authority may revoke a content licence for any material or continued breach of the Act, these Regulations, any other written or the terms and conditions of a licence.

Broadcasting
Monitoring and
Complaints
Committee

54.—(1) The Authority may, for the purpose of handling election complaints, establish a Broadcasting Monitoring and Complaints Committee which shall consist of the following members—

(a) two representatives for the Authority;

(b) a representative from the Malawi Law Society;

(c) a representative from the Electoral Commission responsible for media;

(d) a representative of the Media Council of Malawi;

(e) a representative of the Malawi National Media Institute; and

(f) a representative of the Centre for Multiparty Democracy.

(2) The Broadcasting Monitoring and Complaints Committee shall have the following duties and responsibilities—

(a) to review complaints or allegations against licensees referred to it by the Authority;

(b) to investigate any complaints or allegations against any licensee; and

(c) to make recommendations to the Authority on its findings on any matter referred to it.

(3) In the exercise of its duties and responsibilities set out above, the Broadcasting Monitoring and Complaints Committee shall have the following powers—

(a) to subpoena any person whom it considers necessary for the proper consideration of a complaint or allegation;

(b) to require the production of any document from a licensee; and

(c) to take any action deemed necessary for the proper consideration of any matter before it.

(4) The Broadcasting Monitoring and Complaints Committee shall determine its own rules of procedure.

Appeals

55. Any person aggrieved by an order made by the Authority under these Regulations may apply to the High Court for judicial review.

FIRST SCHEDULE

(reg. 25)

PROGRAMME CLASSIFICATION

<i>CLASS DESCRIPTION</i>	<i>CLASSIFICATION</i>	<i>TYPE OF PROGRAMMING</i>
F	Generally acceptable content for all ages	Kids Programmes
U	Universal programmes should be suitable for audiences aged four years and over, although it is impossible to predict what might upset any particular child.	Some kids Programmes
PG	PG Parental Guidance – General viewing, but some scenes may be unsuitable for young children A PG film or programme should not unsettle a child aged around eight or older. Unaccompanied children of any age may watch, but parents are advised to consider whether the content may upset younger, or more sensitive, children.	Programmes, Movies
12	Films or programmes classified 12 contain material that is not generally suitable for children aged under 12. Parental Discretion is advised	Programmes, Movies
16	Generally Content not suitable for viewers younger than 16, may contain scenes of violence, sex, nudity or strong language. Viewer Discretion is advised	Programmes, Movies
18	Content may be X rated and adult scenes, may contain extreme violent scene, profanity and other adult types of content	Programmes and movies May be shown from 10 Pm to 5 am
V	Violence	Not suitable for viewers younger than 16
S	Sex	Not Suitable for younger viewers
PG	Parental Guidance	Not Suitable for viewers younger than 13 and parental guidance is advised
L	Strong Language	Not suitable for viewers younger than 10
N	Nudity	Not suitable for viewers younger than 18
P	Prejudice or Negative Stereotyping	Not suitable for viewers younger than 10
B	Blasphemy	Not Suitable for viewers younger than 13 and parental guidance is advised

SECOND SCHEDULE

(reg. 43)

LOCAL CONTENT REQUIREMENT

<i>Broadcasting Category</i>	<i>An annual average of % of its programming during its performance period (Prescribed Average %)</i>
Public Television Content Broadcasting Licensees	50%
Commercial Television Content Broadcasting Licensees	35%
Subscription Television Content Broadcasting Licensees	8%
Public Sound Broadcasting Licensees	60%
Private Sound Broadcasting Licensees	40%
Community Sound Broadcasting License	40%

THIRD SCHEDULE

(reg. 46)

POLITICAL ELECTION BROADCAST TECHNICAL & QUALITY STANDARDS

A licensee that carry out political election broadcast shall conform to the technical quality acceptable to the Authority as issued from time to time including—

- (a) Audio and video recordings shall be the highest professional quality;
- (b) Audio and video recordings are to be submitted on compact disc (CD); and
- (c) Audio and video recordings are clearly labelled, outlining the name of the political party and appointed nominee

The technical standards shall be as follows—

- (a) Radio : Electronically MP3 format or on CD format in broadcast quality standard; and
- (b) Television: broadcast quality Betacam format for the public broadcaster and an option of DVD/Betacam format for other licensees.
- (c) Any other high quality broadcast standard as approved by the Authority from time to time.

FOURTH SCHEDULE

(reg. 52)

OFFENCES AND PENALTIES FOR BREACH OF BROADCASTING REGULATIONS

<i>OFFENCE</i>	<i>MAXIMUM PENALTY</i>
(a) Broadcasting service without a licence.	A fine of K 5, 000,000 or imprisonment for 2 years.

<i>OFFENCE</i>	<i>MAXIMUM PENALTY</i>
(b) Broadcasting outside the watershed hours any material that is abusive, sexual or offensive to children or that has been prohibited under these regulations.	A fine of K1, 000,000 fine or imprisonment for six months.
(c) Broadcasting a party advertisement less than forty eight hours prior to the commencement of the polling period.	A fine of K 1,000,000 or imprisonment for six months.
(d) Broadcasting of an election material in breach of the regulations.	A fine of K2,000,000 or imprisonment for 1 year
(e) Airing a live broadcast without the use of a profanity delay machine.	A fine of K1,000,000
(f) Broadcasting hate messages	Retraction or apology in the same programme within 48 hours of the initial broadcast
(g) Transferring or changing ownership without the Authority's approval	revocation of licence
(h) Broadcasting advertisements in breach of the regulations	A fine of K500,000
(i) Sponsoring of programmes in breach of the regulations	A fine of K50,000
(j) Broadcasting infomercials in breach of the regulations	A fine of K500,000
(k) Causing harmful interference	A fine of K2,000,000 or imprisonment for 1 year
(l) Broadcasting in breach of local content requirements	2.3 A fine of K500,000
(m) Broadcasting of unclassified material or program which requires to be classified.	A fine of K2,000,000
(n) Improper broadcasting of a classified material or program.	2.3 A fine of K1,000,000
(o) Inaccurate, unfair and partial reporting	Retraction or apology in the same programme within 48 hours of broadcast
(p) Broadcasting of unconfirmed reports	Retraction or apology in the same programme within 48 hours of initial broadcast
(q) Diverging the identity of a victim of a crime without the consent of the victim	A fine of K500,000
(r) Improper conduct of interviews	A fine of K50,000
(s) Broadcasting of religious programs in breach of the regulations	Apology or retraction in the same programme within 48hours of the initial broadcast
(t) Breach of broadcasting format	A fine of K1,000,000

<i>OFFENCE</i>	<i>MAXIMUM PENALTY</i>
(u) Broadcasting a special event in breach of the regulations	A fine of K50,000
(v) Broadcasting of abusive content	A fine of K2,000,000
(w) Breach of roll out obligations	Revocation of licence within 12 months of non-roll out
(x) Broadcasting in breach of requirements of the licence category	Revocation of licence
(y) Providing subscription broadcasting in breach of the regulations	A fine of K1,000,000
(z) Provision of signal distribution services in breach of the regulations	A fine of K1,000,000
(aa) Any person guilty of an offence under these regulations for which no other penalty has been prescribed.	A fine of K3,000,000 or imprisonment for ten years

Made this 14th day of September, 2018.

(FILE REF. NO. MICTCE/A/1/01)

N. H. DAUSI
*Minister of Information and
Communications Technology*