

THE ESWATINI BROADCASTING ACT, 2023

(Act No. 7 of 2023)



I ASSENT

**MSWATI III
KING OF THE KINGDOM
OF ESWATINI**

8th JUNE, 2023

**AN ACT
ENTITLED**

AN ACT to provide for; the establishment of the Eswatini Broadcasting Corporation, the regulation and licensing of broadcasting services and their content in Eswatini; the maximum availability of broadcasting services to the people through the three- tier system of public, commercial and community broadcasting services; subscription services; subscription management services; online content services and for incidental matters.

ENACTED by the King and the Parliament of Eswatini.

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**PART I
PRELIMINARY**

Short title and commencement

1. (1) This Act may be cited as the Eswatini Broadcasting Act, 2022.

(2) This Act shall come into force on a date to be appointed by the Minister by notice in the Gazette.

Interpretation

2. In this Act, unless the context otherwise requires –

“annual turnover” means the total sales generated by the licensee over a period of twelve (12) months;

“appointed date” means the date appointed by the Minister under section 1;

“Authority” means the Eswatini Television Authority established under the Eswatini Television Authority Act, 1983;

“Board” means the Board of Directors established under section 47;

“broadcasting” means the provision of vision, sound, multimedia and data service, principally intended for delivery of information, entertainment and education to the general public;

“broadcasting service” means a service that delivers vision, sound, multimedia and data programmes to persons having equipment appropriate for receiving that service, whether the delivery uses the radio frequency spectrum, cable, optical fibre, satellite or any other means or combination of those means;

“broadcasting service licensee” means a person to whom a broadcasting service license has been granted in terms of this Act;

“Chairperson” means the Chairperson of the Board of the Eswatini Broadcasting Corporation appointed under section 48;

“code of conduct” means the Code of Conduct developed by the Commission and set out in First Schedule;

“code of ethics” means the Code of Ethics and Advertising Practices drawn up by the Standards Committee under section 38;

“commercial broadcasting” means a broadcasting service operated for profit;

“Commission” means the Eswatini Communications Commission established under the Eswatini Communications Commission Act, 2013;

“community” includes a geographically defined community or any group of persons or sector of the public having a specific and ascertainable common interest;

“community broadcasting” means a broadcasting service which-

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

(c) encourages members of the community served by that broadcasting service or persons associated with promoting the interests of that community to participate in the selection and provision of programmes to be broadcast; and

(d) is funded by donations, grants, sponsorship or advertising or membership fees, or by a combination of any of them;

“Constitution” means the Constitution of the Kingdom of Eswatini, Act no. 001 of 2015;

“Corporation” means the Eswatini Broadcasting Corporation established under section 43;

“credible qualification” means a formal qualification from a recognized institution in Media Studies or a related field;

“dealer” means-

(a) a person who carries on a trade, business or industry in which television receivers are assembled, manufactured, imported, bought, sold, exchanged, or offered or exposed for sale or exchange;

(b) an auctioneer of television receivers;

“diffusion services” means a telecommunication service of transmissions consisting of sounds, images, signs or signals, which takes place over wires or any other electronic communications technology and intended for reception by specific members of the public;

“Director-General” means the Director-General of the Eswatini Broadcasting Corporation appointed as such under section 56;

“information” includes signs, signals, writing, pictures, sounds or other information of any nature which constitutes the content transmitted by electronic communication;

“juristic person” means a partnership, association, joint venture, trust, company or corporation;

“landing rights” means authorization granted to a foreign satellite or cable operator whose signal is received in Eswatini but the operator is neither physically based in Eswatini nor uplinking from Eswatini;

“license” means an authorization granted by the Commission under this Act for the provision of broadcasting services or services related to Broadcasting;

“licensee” means a person who is the holder of, or deemed to be the holder of a license to provide broadcasting under the remit of the Commission in accordance with this Act;

“licensed service” means a service that is authorized to be undertaken under a license granted by the Commission;

“Minister” means the Minister responsible for Information, Communications and Technology;

“online content services” means broadcasting services provided through the internet or intranet or wide area networks;

“person” means a natural or juristic person;

“prescribed” means authorized under a statutory instrument issued by the Minister under this Act;

“public broadcasting service” means-

- (a) a broadcasting service provided by the Eswatini Broadcasting Corporation;
- (b) a broadcasting service provided by any other statutory body; or
- (c) a broadcasting service provided by a person who receives funding from the State;

“related services” means services including subscription management services, landing rights, digital terrestrial television network service and any other service that the Commission may determine from time to time;

“subscription broadcasting service” means a broadcasting service provided to an end user upon payment of a fee;

“subscription management service” means administrative and support services provided to broadcasting service providers which include subscription fee collection, marketing and sales, technical and installation support operation of a national call centre and the provision of assurance of quality of service and consumer protection;

“television broadcasting service” means a broadcasting service consisting in the sending of visual images or other visible signals whether with or without accompanying sounds, where the visual images are such that sequences of them are seen as moving pictures;

“television receiver” means any device that has a capability to receive, transmit, record, stream or communicate television signals and any electronic device that can communicate or receive television signals through electromagnetic frequencies, and any other device which may carry the above purpose as may be so defined from time to time;

“temporal license” means an authorization granted by the Commission under this Act for the provision of electronic communications network or services related to broadcasting for a short duration on such terms and conditions determined by the Commission; and

“watershed period” means the period after 22.00 hours up to 05.00 hours that is observed by the licensees as the period during which television programmes that might be unsuitable for children may be broadcast.

Purpose of Act

3. The purpose of this Act is for -

- (a) the establishment of the Eswatini Broadcasting Corporation, a national public broadcaster for the Kingdom of Eswatini, by amalgamating the operations and resources of Eswatini Television and the Eswatini Broadcasting and Information Services;
- (b) the regulation of broadcasting services in Eswatini;
- (c) ensuring the maximum availability of broadcasting services to the people through the three-tier system of public, commercial, community broadcasting services, subscription services, subscription management services, and online content services;
- (d) ensuring that broadcasting contributes to the socio-economic and political development of the society, nation building, provision for educational issues and the strengthening of the spiritual and moral fibre;
- (e) the establishment of a Board of Directors to run the Corporation and the procedure for the nomination of members of the Board;

- (f) matters incidental to public broadcasting;
- (g) encouraging the development of local programming content;
- (h) ensuring fair competition in the broadcasting sector;
- (i) ensuring the development of human resources and capacity building within the broadcasting sector; and
- (j) promotion of investment in the broadcasting sector.

PART II FUNCTIONS AND POWERS OF THE COMMISSION

Functions of the Commission

4. (1) Under this Act and subject to the provisions of the Eswatini Communications Commission Act, 2013, the Commission shall regulate broadcasting services in a manner that informs, educates and entertains the public and will ensure a balanced development of broadcasting on radio and television.

(2) The Commission shall, in the discharge of its duties in relation to the issuing of licenses and spectrum to an applicant, be guided by the following-

- (a) upholding of the unity and integrity of Eswatini and the values enshrined in the Constitution;
- (b) safeguarding the right of citizens to be informed freely, truthfully and objectively on all matters of public interest, national or international;
- (c) promoting the development of broadcasting services which are responsive to the needs of the people of Eswatini;
- (d) ensuring that licensees regularly include, in their services, locally produced programmes;
- (e) preserving and promoting Eswatini culture by ensuring that licensees include in their services programmes reflecting the linguistic and cultural diversity of Eswatini;
- (f) promoting the provision of a diverse range of radio and television broadcasting services throughout Eswatini;
- (g) promoting research and development activities in order to ensure that radio and television broadcast technology are constantly updated by licensees; and
- (h) ensuring fair competition between broadcasting licensees.

Powers of the Commission

5. Under this Act and subject to the provisions of the Eswatini Communications Commission Act, 2013, the Commission may-

- (a) inquire into public complaints against a licensee and take any action the Commission considers appropriate;
- (b) set acceptable standards for programmes and advertising and monitor compliance with those standards; and

(c) ensure that broadcasting services-

- (i) are of such a nature as not to encourage or incite crime or racial hatred leading to disorder or offending public feeling;
- (ii) give adequate coverage to information, education, culture, entertainment and recreation; and
- (iii) are impartial and accurate.

Prohibition of provision of broadcasting service without a license

6. (1) A person shall not operate or provide a broadcasting service in Eswatini except in accordance with the terms and conditions of a license issued by the Commission and on payment of such fees as the Minister may, on the recommendation of the Commission, prescribe.

(2) A broadcasting license authorizes the licensee to provide any of the following classes of broadcasting services-

- (a) a public broadcasting service;
- (b) a commercial broadcasting service;
- (c) a community broadcasting service;
- (d) a subscription broadcasting service; and
- (e) any other type of broadcasting service to be determined by the Commission.

Prohibition of provision of services related to broadcasting services without a license

7. (1) A person shall not operate or provide services related to broadcasting license segment provided in section 6 in Eswatini except in accordance with the terms and conditions of a license issued by the Commission and on payment of such fees as the Commission may prescribe.

(2) The Commission shall issue other licenses for the authorisation of services related to broadcasting. These other licenses shall authorize the licensee to provide any of the following, on specific terms and conditions to be defined by the Commission in the authorisation framework -

- (a) subscription management service;
- (b) landing rights;
- (c) Digital Terrestrial Television (DTT) Network Service;
- (d) temporal licenses; or
- (e) any other license.

Public Broadcasting license

8. (1) The Commission may grant a public broadcasting license to provide-

- (a) a diverse range of programming addressing a wide section of Eswatini;
- (b) programming in the official languages stipulated in the Constitution.

(2) All programmes by a public broadcasting service shall, subject to the conditions of a license and regulations of the Commission-

- (a) be accessible to all citizens throughout the country;
- (b) reflect the diversity of public interests by offering different types of programmes; to meet these interests;
- (c) be free of commercial pressures and political influence;
- (d) inform, educate, entertain, and strengthen national identity.

Commercial broadcasting license

9. (1) The Commission may grant a commercial broadcasting license to provide -

- (a) a diverse range of programming addressing a wide section of Eswatini;
- (b) programming in the official languages stipulated in the Constitution ;
- (c) within a reasonable time, comprehensive coverage of the areas with a licensee is licensed to serve.

(2) All programmes by a commercial broadcasting service shall, subject to the conditions of a license and regulation of the Commission-

- (a) reflect the culture, character, needs and aspirations of the people in the areas that the licensee is licensed to serve;
- (b) provide such amount of local or national programming as may be prescribed;
- (c) include news and information programmes on a regular basis, including discussion on matters of national, regional, and where appropriate, local significance; and
- (d) meet the highest standards of journalistic professionalism.

Community broadcasting service license

10. (1) The Commission may grant a community broadcasting service license in the following categories-

- (a) free-to-air radio broadcasting services; or
- (b) free-to-air television services.

(2) A person who wishes to apply for a community broadcasting service license shall do so in accordance with Section 21 of this Act.

(3) A community broadcasting service shall be-

- (a) for community purposes;
- (b) received by commonly available equipment;
- (c) free to the public; and
- (d) produced and broadcast in the language of the community it relates to.

Eligibility for community broadcasting license

11. (1) An applicant shall not be eligible for a community broadcasting license if the applicant-

- (a) is profit making;
- (b) is wholly foreign owned;
- (c) has been convicted of an offence involving dishonesty;
- (d) is a member, adherent or holds office in an entity, organization or association with an ideological purpose in contravention of the Suppression of Terrorism Act, 2008 or its successor, or whose members are organized, trained or equipped for the purpose of contravening the Public Order Act, 2017 or its successor, or any other national security related law; or
- (e) is an operator, shareholder, employee or holds an interest in any media establishment.

(2) A newspaper, commercial radio or television station proprietor shall not own or control any share or interest in a community radio station.

Duration of community broadcasting service license

12. A community broadcasting service license shall be for a period of ten (10) years and may be renewed subject to such terms and conditions as the Commission may stipulate.

Community to run broadcast

13. (1) A community broadcasting service shall serve a community and, the members of that community shall be given an opportunity to run the service.

(2) The programming provided by a community broadcasting service shall reflect the needs of the people in the community, which shall include culture, language and demography, and shall-

- (a) provide a distinct broadcasting service dealing specifically with issues which are not predominantly dealt with by the public broadcasting service covering the same area;
- (b) serve to eradicate poverty through participatory communication in the community;
- (c) be informative, educational and entertaining;
- (d) focus on the provision of programmes that highlight grass-root community issues, including, but not limited to, developmental and general educational, environmental, local, international and current affairs and reflect local culture;
- (e) promote the development of a sense of common purpose and improve the quality of life; and
- (f) help foster cultural and communal identity.

Availability of frequency

14. Subject to Part VII of the Electronic Communications Act, 2013, with regard to radio frequency management, the Commission shall, in issuing a community broadcasting service license, be guided by the number of available frequencies for community broadcasting.

Prohibition of holding more than one community radio license

15. (1) A person shall not hold more than one community radio license.

(2) A community radio station shall have, and use equipment in accordance with the International Telecommunication Union specifications or any regulations made under this Act.

Free-to-air broadcasting services

16. (1) A commercial broadcasting service license shall, subject to the conditions of the license, provide such free-to-air broadcasting services as may be determined by the Commission.

(2) Subject to subsection (3), where programming is provided by free-to-air television broadcasting, the programmes shall include significant proportions of Eswatini drama, documentaries and children's programmes that reflect Eswatini themes, literature and historical events.

(3) Notwithstanding subsection (2), the Minister, on the recommendation of the Commission may make regulations on the proportion of Eswatini programming and other matters to be broadcast by a licensee and may require such licensee to provide programming which reflects Eswatini circumstances in accordance with regulations made under this subsection.

Subscription broadcasting services

17. (1) A subscription broadcasting service license shall, for purposes of providing the Broadcasting service, draw revenue from subscription, advertising and sponsorship.

(2) A subscription broadcasting service license in providing subscription broadcasting services, shall not acquire exclusive rights to the broadcasting of a national, sporting or other event which is identified, by the Commission, to be in the public interest.

(3) The Commission may from time to time issue any other type of license and make regulations with regards to applicable conditions to the service.

(4) Any subscription broadcasting services provider shall set aside a specific portion of their channels for a local public broadcaster.

Subscription management services and application for landing rights authorisation.

18. (1) A person shall not provide a subscription management service in Eswatini except in accordance with the terms and conditions of a license issued by the Commission and on payment of such fees as the Commission may prescribe.

(2) The Commission may require licensees to offer subscription management services to provide the following services on behalf of a multi-channel satellite provider broadcasting from outside Eswatini -

- (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 Commission may require.

(3) A subscription management services provider shall not enter into contractual arrangements with a foreign multi-channel satellite provider unless the foreign multi-channel satellite provider has landing rights in Eswatini.

(4) A subscription management services provider shall be required to have minimum local equity participation of at least thirty (30) percent.

(5) A subscription management service provider 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) conditions under which the service is supplied;
- (e) instructions regarding the 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) notice period of at least fourteen (14) days to be given before effecting to any changes in the programming service or channel allocation, in writing.

(6) A person licensed to provide Subscription Management Services shall provide means that parents or guardians may use to control access to broadcast content that is accessible and that they may consider inappropriate.

(7) A subscription management service license shall be valid for a period of ten (10) years and may be renewed, subject to such terms and conditions as the Commission may stipulate.

(8) The subscription management services licensee shall facilitate carriage by the subscription broadcasting service provider for whom it provides subscription management services, the primary channel of a public broadcasting service provider in Eswatini.

(9) The Commission may, on application, grant landing rights for satellite signals originating outside Eswatini to land in Eswatini. The following process shall apply in respect of landing rights –

- (a) A person who applies for landing rights shall submit, in writing, to the Commission, the following information;
 - (i) their full names;
 - (ii) their physical address, postal address, telephone number and email address;
 - (iii) the details of their contact person and that person's email address;
 - (iv) the country in which they are incorporated and their registration number;

- (v) the brand name under which their service is provided;
 - (vi) the name and band of the satellite to be used to provide the service, the name of the satellite transponder, uplink and downlink frequencies, and the uplink and orbital locations;
 - (vii) a declaration indicating that they have cleared the copyright to the channels on their service; and
 - (viii) a declaration that they have or will appoint a subscription management service provider in Eswatini.
- (b) The landing rights holder shall pay to the Commission an annual landing rights authorisation fee.

Licensing of operator of diffusion service

19. A person shall not operate a diffusion service in Eswatini except in accordance with the terms and conditions of a license issued by the Commission and on payment of such fees as may be prescribed.

Frequency spectrum licensing

20. A person licensed to operate and provide broadcasting services, shall apply to the Commission for the assignment of the necessary frequency in accordance with the Electronic Communications (Frequency Spectrum) Regulations, 2016.

Application for a broadcasting or related service license

21. (1) Broadcasting and related services licenses shall fall under individual licenses and shall only be granted after the Commission has published an invitation to apply.

(2) The Commission shall issue a decision, to be published on a website of the Commission, specifying –

- (a) the category of broadcasting or related service licenses which may be applied for;
- (b) the procedure through which a person wishing to obtain a particular broadcasting or related service license may apply to the Commission;
- (c) the information which shall be provided to the Commission at the time of the initial application or a subsequent application for a license;
- (d) the criteria according to which each application for a broadcasting or related service license shall be determined;
- (e) the administrative fee payable for each application for a broadcasting or related service license; and
- (f) whether or not the issue of a broadcasting or related service license is in the public interest.

(3) The Commission shall, in establishing licensing procedures and evaluating applications for a broadcasting or related service license, act in an open, transparent and non-discriminatory manner.

(4) A person who intends to apply for a license shall make the application in the prescribed form and pay such fee as the Commission may prescribe from time to time.

(5) The Commission may, in its discretion, grant or reject an application for a broadcasting or related service license taking into consideration –

- (a) the market for the license being requested;
- (b) the published criteria by which the license shall be issued; and
- (c) whether or not the issue of the license is in the public interest.

(6) The Commission may reject the application if –

- (a) the information submitted is not complete or if the information is not submitted in strict compliance with the requirements set out in the decision issued under subsection (2);
- (b) the information provided is discovered to be false or inaccurate;
- (c) the applicant has an outstanding license fee or any other outstanding amounts due to the Commission;
- (d) the previous license of the applicant had been revoked or suspended, even outside Eswatini; or
- (e) the Commission suspects that the applicant or a person directly involved in the business of the applicant may reasonably pose a threat to public trust, public security or public order.

(7) The Commission shall complete an evaluation of the registration of a broadcasting or related service license within six (6) months from the date of submission of the application.

(8) An applicant shall submit any information requested by the Commission during the evaluation process, relating to the registration of a broadcasting or related service license, and failure to do so within such time as the Commission may prescribe shall result in a rejection of the application.

(9) Where the broadcasting or related service license to be issued is to be limited in number, the Commission –

- (a) shall publish a consultative document providing a detailed explanation of the reasons for the proposed limitation and consider representations made to the Commission on the matter; and
- (b) may make use of competitive or comparative selection procedures.

(10) The Commission shall, before completing an evaluation, publish a non-confidential version of the proposed license for consultation and allow any interested parties the opportunities to comment on the proposed license with or without oral presentations and shall consider such representations concerning the draft.

(11) The Commission shall, after completion of an evaluation of an application for a broadcasting or related service license, inform the applicant in writing whether the application was accepted or not, and in the case of a rejection, shall give the applicant reasons for that decision.

(12) Where the Commission accepts an application for a broadcasting or related service license, and upon payment, by the applicant, of the appropriate license fee, the Commission shall publish the final version of the license on the website of the Commission, and the final version shall come into effect within thirty (30) days of publication.

(13) A person operating or providing a broadcasting or related service without a license issued under this section shall be liable to a fine of two thousand emalangeni (E2000) for every day during which that person continues to operate or provide a broadcasting or related service.

(14) The Commission shall not grant a license where the applicant-

- (a) already holds a license, directly or indirectly controls, or has an interest in, an organization, association or company which already holds a license;
- (b) is not a citizen of Eswatini or is not ordinarily resident in Eswatini;
- (c) is a member, adherent or holds office in an entity, organisation or association with an ideological purpose in contravention of the Suppression of Terrorism Act, 2008 or its successor, or whose members are organised, trained or equipped for the purpose of contravening the Public Order Act, 2017 or any other national security related law;
- (d) has been declared bankrupt or insolvent by a court of law, or has been convicted of any offence involving fraud or dishonesty; or
- (e) is a body corporate which is registered in a foreign country or where twenty percent 20% or more of the directors are foreign Nationals.

Consideration of application

22. (1) The Commission shall, in determining whether to grant an application for a license under this Act, have regard, amongst others to-

- (a) any objection made;
- (b) the purpose of this Act;
- (c) whether or not the applicant is qualified to offer the broadcasting or related service;
- (d) the likelihood that the applicant shall comply with any condition of the license; and
- (e) the ability of the applicant to satisfy the Commission that the applicant shall comply with the Code of Conduct.

(2) The Commission shall promote pluralism in the media by giving priority of consideration to applicants who are able to satisfy the Commission that their broadcasting services shall be subject to no editorial control other than an independent editorial control exercised from within the broadcasting of the prospective licensee.

(3) In the consideration of application for broadcasting licenses, the Commission shall have the power to consult with any entity.

Refusal of license

23. (1) Notwithstanding any other provision of this Act to the contrary, where the Commission is of the opinion that, by granting an application, the attainment of the objective of promoting a diverse range of radio and television broadcasting and related services and the plural nature of Eswatini may be impeded, the Commission may refuse an application.

(2) Prior to the decision in subsection (1), the Commission shall afford the applicant an opportunity to make representations which may be written and/or oral, at the discretion of the Commission, which representations shall be taken into consideration.

Amendment of license

24. (1) A license may be amended –

- (a) by the written agreement of the parties;
- (b) by the Commission, where the occurrence of an event that cannot be controlled (force majeure), national security considerations, changes in national laws or the implementation of international obligations require amendment; or
- (c) where the Commission, taking into account the public interest, considers the amendment necessary to achieve the objectives of this Act.

(2) The Commission shall before amending a license under subsection (1)–

- (a) give the licensee notice in writing of the proposed amendment, and such notice shall detail the reasons for the amendment and the date on which the amendment shall take effect,
- (b) give the licensee the opportunity to make submissions within the timelines prescribed by the Commission which shall however not be less than one month, from the date upon which the licensee received the Notice referred to in subsection (2)(a).

(3) The submissions referred to in subsection (2) (a) may include proposed alternatives to the amendment.

(4) Notwithstanding subsections (2) and (3), the Commission may amend a license with immediate effect where there is, or is likely to be, a risk to national security, or where amendment is essential in the public interest.

(5) A person aggrieved by a decision of the Commission may have recourse to the measures established under Section 44 of the Eswatini Communications Commission Act, 2013.

Conditions of license

25. (1) A broadcasting, diffusion or related service license granted under this Act is subject to the specified conditions and any conditions which apply to each category of license granted.

(2) Without prejudice to the generality of subsection (1), the conditions of a license may specify–

- (a) the site or sites at which a broadcasting station to be operated under the license is to be located and the manner of installation of the broadcasting station;
- (b) the kind of broadcasting authorized by the license and the type of and standard of broadcasting stations apparatus to be used in any such broadcasting station;
- (c) the payment to the Commission of any annual or other periodic license fees;
- (d) the furnishing of such document, accounts, returns, estimates and other information as the Commission considers necessary for the purposes of exercising or performing its powers and functions under this Act.

- (e) referral of specified matters to the Commission for determination;
 - (f) that directions given by the Commission in relation to specified matters must be complied with;
 - (g) that the arbitration of disputes arising in connection with the terms and conditions of, or otherwise concerning the license, shall be dealt with in accordance with the procedures laid down by the Commission;
 - (h) the payment of fines and penalties by the licensee for breaches of any specified terms and conditions of the license; and
 - (i) a requirement that the licensee shall afford, in such manner as may be prescribed, a right of reply to a person whose character, goodwill or reputation has been adversely affected by a broadcast.
- (3) A licensee shall comply with the terms and conditions of their license and shall be subject to this Act.
- (4) A licensee shall carry out its activities in accordance with the Code of Conduct.

Variation and revocation of license

26. (1) A licensee may make a written application to the Commission to vary the terms and conditions of the license and the Commission may vary the license subject to such conditions as the Commission considers appropriate.

(2) Subject to Sub-section (5), the Commission may revoke a license where the Commission is satisfied that -

- (a) the licensee has failed to operate within 12 months of the issue of the license or within such additional period as the Commission may allow;
- (b) the licensee has ceased operating under the license;
- (c) the licensee has given the Commission information which is false or misleading in a material particular;
- (d) the licensee has failed to comply with the Code of Conduct or that the licensee has contravened this Act or a term or condition of the license;
- (e) it is in the public interest to do so; or
- (f) the licensee no longer satisfies any of the conditions as set out by the Commission.

(3) Where the Commission is satisfied that a license should be varied or revoked, it shall, in writing, give notice of its intention to do so to the licensee, together with the reasons for that intention.

(4) The Commission shall, in a notice under subsection (3), require the licensee to show cause in writing, within such time as may be specified in the notice, why the license should not be revoked or varied.

(5) The process for considering and deciding on any amendment, suspension and termination of a license, shall apply in the case of revocation or variation under this Act.

Application in respect of material change

27. (1) A licensee shall inform the Commission of any material change that may occur after the granting of their license.

(2) Where a licensee fails to notify the Commission of any material change, the Commission may revoke the license by notice served on the licensee, and the revocation shall take effect on the date specified in the notice.

(3) The Commission shall not serve the notice referred to in subsection (2) on the licensee unless it has given the licensee an opportunity to be heard.

(4) In this section, "material change" in relation to a licensee means-

- (a) any change affecting the characteristics of the licensee; or
- (b) any change in the persons having control over or interests in the licensee.

Fees

28. (1) An application for a license under this Act shall be accompanied by the prescribed application fee.

(2) The fees shall be prescribed in accordance with such tariff as may be fixed by the Commission from time to time and may include fees chargeable on renewal or variation of a license.

(3) A licensee shall be required to pay, annually, a percentage of its annual turnover in license fees, the percentage of which shall be set out in the fees schedule to be published by the Commission from time to time.

(4) The Commission may make it a condition of a grant of a license that providers of broadcasting and related services shall contribute to a universal access fund as established by the Electronic Communications Act, 2013, such amount as may be determined by the Commission from time to time.

Prohibition of assignment or transfer of license

29. (1) A licensee shall not buy, sell, lease, mortgage or charge or in any manner assign or encumber a license and shall not transfer or cede a license to any other person without the written consent of the Commission.

(2) The Commission shall not permit the transfer of a license unless it is satisfied that the person to whom the license is being transferred shall comply with all of the conditions of the license.

Investigations of breaches by licensees

30. (1) Where the Commission is satisfied that a licensee is contravening or has contravened the Act, Regulations, Guidelines, decisions, directives, codes, standards, policies or any other legal framework made under the Act or has contravened any condition of their license, the Commission shall commence investigations for the purpose of attaining compliance with the Act, Regulation, legal framework or condition.

(2) Where the investigations under subsection (1) indicate that there is a likelihood of a breach of a condition of the Act, Regulations, Guidelines, decisions, directives, codes, standards, policies or any other legal framework or license, the Commission shall make its determination on the matter.

(3) In making its determination, the Commission -

- (a) may provide an opportunity for public consultation;
- (b) shall, where there is a public consultation, consider the public comments received;
- (c) shall not be bound by technicalities, legal forms or rules of evidence;
- (d) shall act within a period not exceeding thirty (30) days, regard being had to the need to carefully inquire into and investigate a dispute and all matters affecting the merits and for the attainment of a fair settlement of the dispute; and
- (e) shall accord an opportunity to the licensee to respond to any allegation of breach after giving it sufficient notice not less than seven (7) days.

(4) Notwithstanding subsection (3), the Commission may at any time issue an interim ruling directing a licensee to stop a specific conduct or to take a specific act where the Commission is satisfied that -

- (a) there is *prima facie* evidence that the licensee contravened the Act, or Regulations made under the Act or contravened a condition of the license;
- (b) continuation of the licensee's conduct is likely to cause serious harm to other licensees, consumers or the general public;
- (c) the potential harm in allowing a licensee to continue its conduct outweighs the obligation on the licensee; or
- (d) it is in the public interest that the ruling be issued.

Sanctions

31. (1) Where the Commission determines that a licensee has contravened any conditions of a license, the Act or Regulations, Guidelines, decision, directives, codes, standards, policies or any other legal framework made under the Act, the Commission may impose any of the following regulatory sanctions -

- (a) issue a compliance order;
- (b) issue a cease and desist order;
- (c) impose a fine;
- (d) issue warnings;
- (e) suspend a license;
- (f) revoke the license; or
- (g) make any other order that the Commission considers appropriate.

(2) In imposing sanctions under subsection (1), the Commission shall consider any aggravating factors, including-

- (a) the gravity of the contravention;
- (b) the duration of the contravention;

- (c) whether the contravention resulted in injury to a person or property;
- (d) whether the licensee acted knowingly, recklessly, or in a negligent manner;
- (e) whether the licensee has a previous history of contraventions; or
- (f) whether the licensee is a repeated offender.

(3) In imposing a sanction, the Commission may, in addition consider any mitigating factors including-

- (a) whether the licensee took prompt action to correct the contravention;
- (b) whether the contravention was accidental; or
- (c) whether the licensee voluntarily disclosed the contravention to the Commission.

Review of decision and appeal

32. All reviews and appeals against decisions of the Commission relating to broadcasting or related services shall be dealt with in accordance with Section 44 of the Eswatini Communications Commission Act, 2013.

Availability of Universal Service

33. (1) The Commission shall develop annual objectives with the purpose of ensuring that broadcasting services are made available, at the quality specified, to all end-users in Eswatini including those with disabilities, independently of geographical location, and, in the light of specific national conditions, at an affordable price.

(2) The Commission shall determine the most efficient and appropriate approach for ensuring the implementation of Universal Service as provided for in subsection (1).

(3) The Commission may make it a condition of a grant of a license that every provider of broadcasting or related services shall contribute a prescribed fee annually to a Universal Access Fund.

(4) The proceeds from the Universal Access Fund shall be used for the development and expansion of broadcasting and related services in areas where there are no services and to provide access to the widest number of users including those with disabilities.

Scope of Universal Service

34. Universal Service obligations developed by the Commission and the proceeds from the Universal Access fund shall apply to any or all of the following categories of broadcasting and related services and infrastructure:

- (a) training and skills-development;
- (b) infrastructure for the provision of broadcasting and related services;
- (c) equipment and end-user devices;
- (d) support in the establishment of content hubs;
- (e) production of local content;

- (f) development of the film industry; and
- (g) any other service the Commission may determine from time to time as forming a part of Universal Service.

PART III PROGRAMMING, SCHEDULING AND ADVERTISING

General guidelines on content of programmes

35. (1) A licensee shall, when broadcasting a licensed service ensure that-
- (a) their programmes do not offend against good taste, morality or decency or are likely to encourage or incite crime or lead to disorder, or are repugnant, offensive to public feeling,
 - (b) their programmes are not broadcast in bad faith;
 - (c) news they broadcast, is accurate, fair and presented impartially;
 - (d) matters of political or industrial controversy or relating to current public policy are broadcast fairly and impartially;
 - (e) the content of religious programme, does not involve-
 - (i) improper exploitation of the susceptibilities of those watching the programmes; or
 - (ii) abusive treatment of the religious views and beliefs of those belonging to a particular religion or religious denomination;
 - (f) the programmes of the licensee do not include any technical device which, by using images of brief duration or by other means, may convey a message to, or otherwise influence, the minds of persons watching the programmes without their being aware, or fully aware, of what has occurred; and
 - (g) that the programmes of the licensee do not encourage or foster hatred or racial tension.

(2) A series of programmes may be considered as a whole in determining whether the requirement of subsection (1) are being complied with.

Broadcasters to determine program standards

36. Every licensee shall develop a code of professional standards, to be lodged and approved by the Commission, which shall comply with the minimum requirements of-

- (a) respect for human dignity and human rights and freedoms;
- (b) contribution to the tolerance of different opinions and beliefs;
- (c) comprehensive, unbiased and independent news broadcast and current affairs programmes with commentary clearly distinguished from news;
- (d) observance of procedures for correcting factual errors and redressing unfairness;
- (e) observance of the principle of the right to reply;

- (f) protection of the integrity of minors by clearly classifying and not broadcasting programmes that may endanger the development of a child outside the Watershed Period; and
- (g) separation of advertisements from other programme outputs.

Editorial Policy for a broadcasting service

37. (1) The licensee shall have an independent editorial policy.

(2) The editorial policy shall-

- (a) reflect, without bias, a range of opinions, philosophical, religious, cultural, traditional, scientific and artistic trends;
- (b) contribute to the development of free and informed opinion;
- (c) respect human dignity, human rights and freedoms as enshrined in the Constitution of Eswatini;
- (d) advance and further international understanding of the sense of peace and social justice of the public;
- (e) contribute to the realization of equal treatment and gender balance; and
- (f) promote moral values and not broadcast programmes which contain, promote or perpetuate hate speech, messages or any prejudices against any person or group of persons.

(3) The licensee shall, for the effective carrying out of its functions, develop the following-

- (a) news editorial policy;
- (b) programming policy;
- (c) local content policy;
- (d) educational policy;
- (e) access policy;
- (f) language policy;
- (g) cultural policy;
- (h) religious policy; and
- (i) political policy.

(4) In developing the policies referred to in subsection (3), community attitudes to the following matters shall be taken into account-

- (a) the portrayal in programmes of physical and psychological violence;
- (b) the portrayal in programmes of sexual conduct and nudity;
- (c) the use in programmes of offensive language, including hate speech;

- (d) the portrayal in programmes of the use of drugs, including alcohol;
- (e) the portrayal in programmes of matter that is likely to incite or perpetuate hatred against, or vilifies, any person or group on the basis of ethnicity, nationality, race, gender, natural difference or condition, age, religion or physical or mental disability;
- (f) the reasonable protection of the name and reputation of individual; and
- (g) such other matters relating to programme content as are of concern to the community.

(5) The licensee shall provide suitable means for the public to provide feedback on its programming and its services and shall ensure that the feedback is given due consideration.

(6) The licensee shall ensure a high standard of accuracy, fairness and impartiality in news and programmes that deal with matters of public interest.

Standards and Ethics

38. (1) The Commission shall set up a Standards Committee consist of a chairperson and not more than six (6) persons, who shall not be members of the Commission.

(2) The chairperson and members of the Standards Committee shall be appointed by the Commission on such terms and conditions as the Commission considers appropriate.

(3) The Standards Committee shall, with the approval of the Commission, draw up a Code of Ethics and Advertising Practices for licensees.

(4) The Code of Ethics referred to in subsection (3) shall give guidance to licensees with regards to the –

- (a) technical standards required in the preparation, production and presentation of broadcast programmes including, where applicable, the need for subtitling for the benefit of the deaf;
- (b) standards and practice in advertising and in the sponsorship of programmes, including ensuring the absence of discrimination;
- (c) promotion of locally-produced programmes;
- (d) optimization of air-time occupancy; and
- (e) standards of good taste and decency for broadcasting programmes particularly having regard to the portrayal of violence or sexual conduct.

(5) When drawing up or reviewing the Code of Ethics, the Standards Committee shall consult-

- (a) all licensees;
- (b) a spectrum of listeners and viewers; or
- (c) any stakeholder that the Committee may consider relevant.

(6) The Standards Committee shall conduct audience research in such manner and at such times as the Commission may determine.

(7) The Standards Committee shall, in light of the research conducted under subsection (6), make periodic reports to the Commission on the standards attained by every licensee.

(8) The Commission may make different provisions in the Code of Ethics for different cases or circumstances.

Review of Code of Ethics

39. (1) The Commission shall, from time to time, review the Code of Ethics, and shall give guidance regarding-

- (a) the rules to be observed with respect to the showing of violence, or the inclusion of sounds suggestive of violence, in programmes included in licensed services, particularly when large numbers of children and young persons may be expected to be watching the programmes;
- (b) the rules to be observed with respect to the inclusion in such programmes of appeals for donations; and
- (c) such other standards and practices for such programmes as the Commission may consider necessary.

(2) The licensee shall comply with the provisions of the Code of Ethics.

(3) The Commission shall, in drawing up or revising the Code of Ethics, take into account the international obligations of Eswatini.

(4) The Commission shall publish the Code of Ethics and every revision of the Code, in such manner as the Commission considers appropriate.

Commission to give direction

40. (1) The Commission may exercise methods of control for the purposes of ensuring that the provisions of the Code of Ethics are complied with, and for the purpose of securing compliance with requirements imposed under section 38 which go beyond the requirement of the Code, shall include a power to give directions to the licensee-

- (a) with respect to the classes and descriptions of advertisements and methods of advertising or sponsorship to be excluded, or to be excluded in particular circumstances; or
- (b) with respect to the exclusion of a particular advertisement, or the exclusion of that advertisement in particular circumstances.

(2) The Commission may give directions to any person holding any class of license with respect to the times when advertisements are to be allowed.

(3) Directions under this section may, to any degree, either be general or specific, qualified or unqualified; and directions under subsection (2) may, in particular, relate to-

- (a) the maximum amount of time to be given to advertisements in any hour or other period;
- (b) the minimum interval which shall lapse between any two periods given to advertisements and the number of each period to be allowed in any program or in any hour or day; and

(c) the exclusion of advertisements from a specified part of a licensed service.

(4) The Commission may make different provision for different parts of the day, different days of the week, different types of programmes or for other differing circumstances.

Advertising

41. (1) A licensee shall comply with the rules specified in subsection (2) in relation to a licensed service. A licensed service shall not include-

- (a) any advertisement which is inserted by or on behalf of a body whose objects are wholly or mainly of a political nature;
- (b) any advertisement which has any relation to an industrial dispute other than an advertisement of a public service nature inserted by, or on behalf of a government department;
- (c) unreasonable discrimination against or in favour of any particular advertiser; and
- (d) without the prior approval of the Commission, a program which is sponsored by any person whose business consists, wholly or mainly, in the manufacture or supply of a product, or in the provision of a service, which the licensee is prohibited from advertising.

(2) Nothing in subsection (1) shall be construed as prohibiting the inclusion in a licensed service of any broadcast which complies with any rules prescribed by the Commission.

(3) The Commission shall not act as an advertising agent.

Classification and description of advertisements

42. The Commission shall provide the classes and description of advertisements which should not be included in licensed services and the methods of advertising or sponsorship which shall not be implored in, or in connection with the provision of that service.

**PART IV
ESTABLISHMENT OF ESWATINI BROADCASTING CORPORATION**

Establishment of the Corporation

43. (1) There is established a Corporation to be known as the Eswatini Broadcasting Corporation which shall be a body corporate with perpetual succession and a common seal, capable of suing and being sued in its corporate name and, subject to the provisions of this Act, of performing all such acts that a body corporate may by law do or perform.

(2) The Corporation shall be a public broadcaster.

(3) The Corporation shall have an official seal for the authentication of documents issued by the Corporation and the seal of the Corporation shall be authenticated by the signature of the Chairperson or the Vice Chairperson of the Board and the Director-General or one other person authorized in that behalf by a resolution of the Board but, the Board may use a wafer or rubber stamp in lieu of the seal.

(4) A document purported to be executed under the seal of the Corporation, or signed on its behalf, shall be received in evidence and, unless the contrary is proved, shall be taken to be duly executed or signed.

(5) The Corporation shall take over and amalgamate the operations and resources of the existing two public broadcasters, Eswatini Television, which is currently responsible for television broadcasting and Eswatini Broadcasting and Information Services which currently responsible for radio broadcasting.

(6) All frequencies allocated before the appointed date to Eswatini Television and Eswatini Broadcasting and Information Services under any enactment shall continue to be operated exclusively by the Corporation.

(7) Notwithstanding any other provision of this Act, the Corporation shall be deemed to be licensed to provide every class of broadcasting service that it provides immediately before the appointed date.

(8) The Corporation shall have power, subject to the provisions of this Act, to do all or any of the matters and things specified in this Act.

Objects of the Corporation

44. (1) The main object of the Corporation shall be to endeavor to satisfy the aspirations and interests of listeners and viewers in the field of information by providing them with programming that educates, entertains and informs.

(2) Without derogating from the generality of subsection (1), the objects of the Corporation shall be to:

- (a) provide broadcasts that are fair, balanced, accurate, in good taste and impartial;
- (b) refrain from giving unnecessary publicity to any person or matter;
- (c) afford a fair hearing to any person who can be identified in a broadcast;
- (d) strike the right balance in promoting the languages taught or spoken in Eswatini;
- (e) put across the various points of view on controversial matters;
- (f) comply with any code of conduct prescribed by the Commission;
- (g) make its services available throughout Eswatini; and
- (h) to promote local artistic and cultural talent.

Powers and functions of the Corporation

45. (1) The Corporation shall have power, subject to the provisions of this Act, to do all or any of the matters and things specified in this Act.

(2) Without derogating from the generality of subsection (1), the Corporation shall have power to-

- (a) commission, complete, prepare, edit, make, print, publish with or without charge, such books, magazines, periodicals, journals, printed matter, records, cassettes, compact disks, video tapes, audio visuals and interactive material, whether analogue or digital and whether on media known or invented, as may be conducive to any of the objects of the Corporation;
- (b) commission programmes from independent producers;

- (c) organize, present, produce or provide concerts, shows, live recorded performances in connection with broadcasting and programmes supply service of the Corporation;
- (d) collect news and information in any part of the world and to establish and subscribe to credible news sources or agencies;
- (e) carry out research and development work in relation to any technology relevant to the objects of the Corporation;
- (f) carry on or operate such other services including diffusion in exercise of its functions under the Act; and
- (g) perform all such things so as to ensure proper implementation of the objectives of this Act.

(3) The Corporation shall have the right to establish and put into place, various electronic communications networks including broadband technologies for interactive purposes but, the Corporation shall not be restricted to any one technology to be used for the said interactive purposes.

(4) The functions of the Corporation shall be to-

- (a) provide sound and television broadcasting services, whether by online, analogue or digital means, funded through advertisement, subscriptions, sponsorships, license fees or any other means of lawful finance;
- (b) provide, in its public broadcasting service, radio and television programming that is informative, educational, and entertaining;
- (c) be responsive to audience needs and account on how to meet these needs;
- (d) provide other services, whether or not broadcasting or programme supply services, which services shall be ancillary services;
- (e) provide television and radio programmes and any other material to be transmitted or distributed by the common carrier for free to air reception by the public, subject to this Act;
- (f) provide to other bodies by such means and methods as maybe convenient, service, programmes and material to be transmitted or distributed by such bodies;
- (g) adhere, in its operations, to the Public Enterprises (Control and Monitoring) Act, 1989 in so far as it concerns finances, audits, budgets and appointment of auditors; and
- (h) serve the public interest, meet high professional quality standards, and make its services available throughout Eswatini.

Public broadcasting service

46. (1) The Corporation shall provide public and commercial broadcasting services.

(2) The public broadcasting service provided by the Corporation shall-

- (a) make programmes available to Emaswati in all the languages stipulated in the Constitution.

- (b) reflect both the national unity and cultural nature of Eswatini;
 - (c) strive to be of high quality in all the languages of broadcast;
 - (d) provide news and public affairs programming which meets the highest standards of journalism, and which is fair and unbiased and independent from government, commercial or other interests;
 - (e) include significant amount of educational programmes, both curriculum-based and informal, including educative topics from a wide range of social, political and economic issues such as human rights, health, early childhood development, agriculture, culture justice and commerce;
 - (f) enrich the cultural heritage of Eswatini by providing support for traditional and contemporary artistic expression;
 - (g) offer a broad range of service aimed in particular to children, women the youth and people with disabilities;
 - (h) include programmes commissioned from independent producers;
 - (i) include programmes featuring national sports as well as developmental and minority sports;
 - (j) promote programmes with local content in line with the local content policy developed under section 36; and
 - (k) comply with copyright laws.
- (3) The commercial broadcasting service provided by the Corporation shall-
- (a) be subject to the same policy and regulation for commercial broadcasting prescribed; and
 - (b) comply with the values of the public broadcasting service in the in the provision of programme services.
- (4) The Corporation shall -
- (a) ensure that its broadcasting services help towards the development of the knowledge, sense of initiative, civic rights, duties and responsibilities of the population;
 - (b) ensure that its broadcasts programmes-
 - (i) maintain a high general standard both in respect of content and quality;
 - (ii) cover a wide range of subject matters; and
 - (iii) appeal to the aspirations, needs and tastes of its audience;
 - (c) ensure that its broadcasts programmes, including advertisements-
 - (i) do not offend against decency, good taste or public morality; or
 - (ii) are not likely to encourage or incite crime, disorder or violence.
 - (d) give adequate coverage in its broadcasting programmes to news items, both local

and foreign and ensure to the best of its ability that the news bulletins broadcast are accurate and presented in an impartial manner;

- (e) strike a fair balance in the allocation of broadcasting hours among various educational, cultural, political and religious standpoints;
- (f) refrain from expressing its own opinion and observe neutrality and impartiality on-
 - (i) current affairs;
 - (ii) matters of public policy; or
 - (iii) matters of controversy relating to culture, politics, religion or any other subject, other than broadcasting.

Board of Directors

47. There is established the Eswatini Broadcasting Corporation Board which shall, subject to the provisions of this Act, perform the functions and powers of the Corporation under this Act.

Composition of the Board

48. (1) The Board shall consist of not less than five (5) and not more than nine (9) persons, including the Chief Executive Officer of that enterprise, appointed by the Minister, in consultation with the Standing Committee of the Public Enterprise Unit.

(2) Subject to subsection (1)

- (a) one member who is an admitted attorney with not less than ten (10) years experience;
- (b) one member shall have at least ten (10) years media experience and hold a credible qualification in broadcasting;
- (c) one member shall be drawn from civil society and have an interest in media ethics, media freedom and advertising;
- (d) one member shall have a technical qualification in broadcasting with at least ten (10) years' experience in broadcasting;
- (e) one (1) member shall hold a credible qualification in finance and have at least ten (10) years working experience in senior management;
- (f) one (1) member shall be an ordinary citizen of Eswatini;
- (g) one (1) member shall be drawn from the women of Eswatini;
- (h) one (1) member shall be drawn from the youth; and
- (i) one (1) member shall be drawn from people living with disabilities.

(3) The Minister responsible shall, in making the appointment, ensure that an overall balance of technical, professional, commercial, gender and financial skills is maintained on the governing body, and shall endeavour to ensure that, in the interest of continuity, not all the members of the governing body shall be retired at the same time.

(4) The appointment of the Board shall in so far as possible conform to the provisions of the Public Enterprises (Control and Monitoring) Act, 1989.

(5) The Chairperson of the Board shall be appointed by the Minister from the members of the Board appointed in accordance with subsection (1).

(6) The Vice-Chairperson shall be elected by members of the Board from among themselves.

(7) The members of the Board shall be paid such allowances as the Minister, with the approval of the Minister of Finance, may determine.

Functions of the Board

49. The functions of the Board shall be to-

- (a) determine the policy of the Corporation in the fulfillment of its objects;
- (b) recruit and exercise disciplinary control over the staff of the Corporation;
- (c) approve the annual recurrent and capital budgets of the Corporation prepared by management, and monitor its implementation;
- (d) ensure that the Corporation is run as an economically independent body with its own human resources, remuneration and conditions of service policy.
- (e) ensure that the finances of the Corporation are subject to periodic internal and external audit and comply with the provisions of the Public Enterprises (Control and Monitoring) Act, 1989; and
- (f) generally ensure that the Corporation conducts its affairs in accordance with principle of good corporate governance and operates to the optimum in carrying out its objectives.

Disqualification from membership

50. (1) A person shall not be qualified to be appointed to the Board unless that person is committed to fairness, freedom of expression, openness and accountability.

(2) A person shall not be appointed as a member of the Board if that person-

- (a) is not a citizen of Eswatini;
- (b) is not a permanent resident in Eswatini;
- (c) is a member of Parliament, Senate or a local authority;
- (d) is an office bearer or employee of any political party or organization;
- (e) is an immediate family member of a person referred to in paragraph (d);
- (f) is an un-rehabilitated insolvent;
- (g) is a member, adherent or holds office in an entity, organization or association with an ideological purpose in contravention of the Suppression of Terrorism Act, 2008, or its successor or whose members are organized, trained or equipped for the purpose of contravening the Public Order Act, 2017 and any national security related law; or
- (h) has been convicted of an offence under any other written law and sentenced to a term of imprisonment of not less than six (6) months, without option of a fine.

Disclosure of interest

51. (1) A member who has any direct or indirect personal, professional, business or pecuniary interest in any matter which must be considered by the Board shall as soon as reasonably practicable, complete the declaration of interest form prescribed in Third Schedule and submit it to the Director General appointed under section 56 who shall, before the commencement of the meeting at which the subject matter of the declaration is to be considered, bring the form to the attention of all Members.

(2) A member who has declared an interest under subsection (1) shall withdraw from any meeting whilst the matter in respect of which he has declared an interest is being considered by the Board and shall not express any view or take part in any vote concerning the matter.

(3) A member who fails to disclose an interest as required under subsection (1) shall, without prejudice to any penalty that may be imposed on him under subsection (4), be liable to be removed from office as a Member.

(4) A member who contravenes subsection (1) commits an offence and is liable on conviction to a fine not exceeding fifty thousand Emalangeni (E50,000) or to imprisonment for a term not exceeding two years, or both.

(5) The provisions of this section shall apply, *mutatis mutandis*, to a member of a committee of the Board.

Tenure of office and vacancy

52. (1) Members of the Board shall be appointed for a term not exceeding three (3) years and shall be eligible for re-appointment for one further term.

(2) The office of a member becomes vacant if the member-

- (a) resigns;
- (b) dies;
- (c) without good reason or the approval of the Chairperson is absent from three consecutive meetings of the Board of which that member had notice;
- (d) is declared bankrupt;
- (e) is party to or participates in the profits of any contract with the Corporation;
- (f) is declared to be unsound mind; or
- (g) is convicted of an offence and sentenced to a term of imprisonment for a period exceeding six months without the option of a fine or is convicted of any offence involving dishonesty.

(3) Whenever the office of a member becomes vacant before the expiry of the term of office, the Minister may, appoint another member in place of the member who vacates office and such member shall hold office only for the unexpired term.

(4) Within seven days of the date of appointment as Chairperson or member as the case may be, the Chairperson or member shall submit to the Minister a statement in writing of any directorship, office, post, shareholding or financial interest, direct or indirect, held or acquired by such person or their spouse in a company or firm which carries on a radio communication service or operates a diffusion service or deals in receivers or manufactures, assembles, imports or sells apparatus or equipment for use in radio communication or diffusion services.

Procedure of the Board

53. The Third Schedule shall govern the proceedings of the Board.

Committees of the Board

54. (1) The Board may, in the exercise of its functions under this Act, set up such Committees as it thinks fit and, a committee shall operate within the policy guidelines laid down by the Board.

(2) The Board may appoint as members of a committee persons who are not members of the Board, except that at least one member of the Board shall be a member of the committee.

(3) A person serving as a member of a committee shall hold office for such period as the Board may determine.

Immunity

55. Any action or other proceedings shall not lie against any member of the Board or any of its committees, member of staff, agent or representative of the Corporation for or in respect of any act done or omitted to be done in good faith in the exercise or purported exercise of the functions of the Corporation.

Appointment of Director-General and other staff

56. (1) The Board shall, in accordance with the provisions of section 8 of the Public Enterprises (Control and Monitoring) Act, 1989, and on such terms and conditions as the Minister may determine, appoint a Director-General who shall be the Chief Executive Officer of the Corporation.

(2) The Director-General shall be responsible for the-

- (a) execution of the policy of the Board and for the control and management of the day to day business of the Corporation;
- (b) programme content of the radio and television service;
- (c) technical quality of transmission;
- (d) duration of broadcast time used or set aside for advertising;
- (e) development of the business plan of the Corporation for each financial year; and
- (f) development of the performance measurement criteria to be applied by the Corporation annually.

(3) Subject to subsection (4), the Director General shall carry out any other function, duty or exercise any power related to the purposes of the Corporation.

(4) Subject to such instructions or rules of a general nature as it may give or make, the Board may delegate to the Director-General such of its powers under this Act as may be necessary to assist in the effective management of the day to day business and activities of the Corporation.

(5) The Director-General shall be an ex officio member of the Board and shall attend Board meetings and may address the meetings, but shall not have a vote.

(6) The Director-General shall have full editorial freedom within the Editorial Policy submitted to the Commission with respect to the content of the programmes and other transmissions.

(7) The Director-General may resign from office by giving notice in writing to the Board in terms of his contract of employment and may be removed from office by the Minister on the recommendation of the Board in accordance with the provisions of section 8 of the Public Enterprises (Control and Monitoring) Act, 1989.

(8) The employees of the Corporation shall be under the administrative control of the Director-General and the Board may make provision to govern the conditions of service of the employees of the Corporation and, in particular, to deal with-

- (a) the appointment, dismissal, discipline, pay and leave of, and the security to be given by, employees; and
- (b) the establishment and maintenance of a superannuation scheme, medical benefits and loan funds and the contributions payable thereto and the benefits recoverable therefrom.

Chief Financial Officer

57. (1) There shall be a Chief Financial Officer of the Corporation who shall be appointed and dismissed in accordance with section 8(2) of the Public Enterprises (Control and Monitoring) Act, 1989.

(2) The Chief Financial Officer shall-

- (a) keep all proper books and records in relation to the fund, undertaking, activities and property of the Corporation;
- (b) prepare such statements of account as may be necessary to indicate the financial status of the Corporation at the end of each financial year;
- (c) cause the accounts of the Corporation to be examined, audited and reported on annually by auditors appointed under Section 58;
- (d) carry out any other duties assigned to the Chief Financial Officer by the Director General; and
- (e) be answerable to the Director General.

Auditors

58. (1) A reputable firm of auditors shall be appointed in the manner provided in section 9 of the Public Enterprises (Control and Monitoring) Act, 1989, as auditors of the Corporation for such a period as the Minister shall determine.

(2) No person may be appointed as an auditor if the person-

- (a) is a member of the Board or an employee of the Corporation;
- (b) is a partner of a member of the Board or a partner of an employee of the Corporation;
- (c) is an employer or employee of a member of the Board or of the Corporation;
- (d) or the spouse or any other immediate relative of that person, holds or has an interest in an authorization issued under this Act;

- (e) has any other direct or indirect financial interest in, or other relationship with, any person providing a network or service under the remit of the Corporation, except that if any such prohibited interest vests by will or succession in the member for the sole benefit of that member, the member shall, within three months after appointment as a member, dispose of the interest; or
- (f) has any pecuniary interest in the Corporation or any of the activities of the Corporation.

PART V TELEVISION RECEIVER LICENSE AND OTHER LICENSES

Television receiver license

59. (1) The Corporation shall issue three categories of licenses: household, business and dealer's licenses.

(2) Notwithstanding the provisions of any electronic communications law in place, and subject to provisions of this Act, a person shall not have in their possession a television receiver, or trade in a television receiver except in accordance with the terms and conditions of a license issued by the Corporation under this Act and on payment of an annual prescribed fee.

(3) A household shall pay a household license regardless of the number of television receivers in that household.

(4) A juristic person shall pay a business license which requires that each television receiver that is used on the premises concerned be accounted and paid for.

(5) A person who trades in television receivers shall pay a dealer's license.

(6) The Minister may, on the recommendation of the Corporation, by notice in the Gazette, prescribe the fees to be paid on the issue of a license referred to in subsection (1).

(7) License fees referred to under this section shall be paid into the general funds of the Corporation for the use of the Corporation.

(8) The provisions of subsection (1) shall not apply to-

- (a) a person who is a bona fide tourist residing outside Eswatini and whose television receiver is temporarily in Eswatini; or
- (b) a person whose television receiver is capable of use solely in connection with a diffusion service; or
- (c) a household headed by a person regarded as a minor in terms of the Children Protection and Welfare Act, 2012; or
- (d) members of the Diplomatic Corps except for embassy staff who are local and Emaswati; or
- (e) a child headed-household as provided for by the Kingdom of Eswatini's statutes.

(9) A person who owns or operates a television receiver without a license issued under this Act, or payment of the annual license fee, commits an offence and is liable on conviction to a fine not exceeding one thousand Emalangeni (E1,000) or to imprisonment for a period not exceeding one year or to both.

(10) A person who owns or operates a business at which a television receiver is used without a valid Television Receiver Business license issued under this Act, commits an offence and is liable on conviction to a fine not exceeding ten thousand Emalangeni (E10, 000) per television receiver or to imprisonment for a period not exceeding five (5) years or to both.

(11) A person who owns or operates a business dealing in television receivers without a valid Television Receiver Dealer's license issued under this Act, commits an offence and is liable on conviction to a fine not exceeding fifty thousand Emalangeni (E50, 000) per television receiver or to imprisonment for a period not exceeding fifteen (15) years or to both.

Television receiver's validity and transferability

60. (1) The Corporation shall issue a television receiver's license to any person, natural or juristic who possesses a television receiver in accordance with the categories specified in section 59(1).

(2) The television receiver's license shall be validly transferred only when duly endorsed to that effect by the Board or its duly appointed officer.

(3) A television receiver's license, once issued, shall be valid for 12 months from date of issue.

Inspectors

61. (1) The Corporation shall establish an inspectorate unit and may appoint a number of inspectors as are necessary for the performance of its functions under this Act.

(2) An inspector appointed under this section shall be issued with a certificate of appointment which shall be prima facie evidence of the appointment of that inspector.

(3) An inspector carrying out any function under this Act shall, on demand by a person affected by the exercise of that power, produce for inspection the certificate of appointment referred to in subsection (2).

Powers of inspectors

62. (1) To ensure that the provisions of this Act are complied with, an inspector shall have power to demand the production of, and to inspect or make copies of, a license issued under section 59 or 60. A license produced in terms of the Electronic Records (Evidence Act), 2009 shall also suffice.

(2) An inspector or police officer may upon probable cause sworn under oath, obtain from a magistrate, a warrant to enter upon and search or examine the premises specified in the warrant in order to ascertain whether any offence under this Act has been or is being committed on the premises.

(3) Where an inspector or police officer is satisfied that a person or juristic person does not have a valid household, business or dealers license in respect of a matter for which a license is required under this Act, the inspector or police officer may serve on that person a notice in the prescribed form to comply with the provisions of this Act.

Obstruction of inspectors

63. Any person who-

(a) wilfully delays or obstructs an inspector in carrying out his duties under this Act; or

- (b) knowingly or negligently gives an inspector false or misleading information orally, in writing or otherwise;

commits an offence and is liable on conviction: -

- (i) to a fine not exceeding one thousand Emalangeni (E1,000) or to imprisonment for a period not exceeding one (1) year or to both, in respect of household licenses;
- (ii) to a fine not exceeding five thousand Emalangeni (E5,000) or to imprisonment for a period not exceeding five (5) years or to both, in respect of Business licenses; and
- (iii) to a fine not exceeding fifteen thousand Emalangeni (E15,000) or to imprisonment for a period not exceeding fifteen (15) years or to both, in respect of Dealer's licenses.

PART VI FINANCIAL PROVISIONS

Funds of the Corporation

64. (1) The funds of the Corporation shall consist of such monies as may-

- (a) be appropriated to the Corporation by Parliament for the purposes of the Corporation;
- (b) be paid to the Corporation by way of license fees, charges, grants or donations; and
- (c) otherwise vest in or accrue to the Corporation.

(2) The Corporation may-

- (a) accept monies by way of grants and donations from any lawful source in Eswatini and, subject to the approval of the Minister, and the Minister responsible for finance, from any lawful source outside Eswatini;
- (b) subject to the approval of the Minister, and the Minister responsible for finance, raise by way of loans or other means such monies as it may require for the discharge of its functions; and
- (c) in accordance with regulations made under this Act charge license and other fees for services provided by the Corporation

(3) There shall be paid from the funds of the Corporation-

- (a) salaries, fees, loans, gratuities and pensions of the staff of the Corporation and other payments for the recruitment and retention of staff;
- (b) such reasonable travelling and subsistence allowances or other allowances for members of the Board, members of any committee of the Board and staff when engaged on the business of the Corporation and at such rates as the Board may, with the approval of the Minister, determine;
- (c) interest on sums placed at the disposal of, raised by or accruing to, the Corporation;
- (d) rates, taxes, insurance premiums and other outgoings and expenses of maintenance or disposal in connection with lands or buildings which become vested in the Corporation;

(e) the provision and maintenance of television receivers and other equipment and accessories;

(f) such capital expenditure as may be authorized by the Board; and

(g) all other expenses authorized by or incidental to the operation of the Corporation.

(4) The Board may, with the approval of the Minister, invest in such manner as it thinks fit, such funds as it does not immediately require for the discharge of its functions.

(5) The Board shall manage and utilize all the assets and funds vested in it in such manner and for such purposes as, in the opinion of the Board, will best promote the objects of the Corporation.

Financial year

65. The financial year of the Corporation shall be a period of 12 months beginning on the 1st April and ending on the 31st March of each year or such other period as may be prescribed.

Accounts, audit and annual report

66. (1) The Board shall cause to be kept proper books of account and records of all financial transactions, assets and liabilities of the Corporation in respect of each financial year.

(2) The accounts of the Corporation in respect of each financial year shall, within three months or such extended period after the end thereof as the Minister may direct, be audited annually by an independent auditor appointed in accordance with the provisions of section 9 of the Public Enterprises (Control and Monitoring) Act 1989.

(3) The auditor shall report in respect of the accounts for each financial year, in addition to any other matter on which he considers it pertinent to comment, whether or not-

(a) he has received all the information and explanations which, to the best of his knowledge and belief, were necessary for the performance of his duty as auditor;

(b) the accounts and related records of the Corporation have been properly kept;

(c) the Corporation has complied with all the financial provisions of this Act with which it is the duty of the Corporation to comply; and

(d) the statement of accounts prepared by the Corporation was prepared on a consistent basis and represents a true and fair view of the transactions and financial affairs of the Corporation.

(4) The report of the auditor and a copy of the audited accounts shall, within 14 days of the completion thereof, be forwarded to the Corporation by the auditor.

(5) The Corporation shall, within four months of the financial year submit to the Minister, a comprehensive report on its operations during such year, together with the auditor's report and the audited accounts in accordance with the provisions of section 7 of the Public Enterprises (Control and Monitoring) Act, 1989.

(6) The Minister shall lay, before Parliament, a copy of the report submitted to him in terms of subsection (5), within 6 months after the financial year end.

**PART VII
MISCELLANEOUS**

Broadcasting under proclamation of public emergency

67. (1) Where there is in force a proclamation of a state of public emergency or threatened public emergency under the Constitution, an officer or authority acting under an order made under that proclamation, shall-

- (a) take over all broadcasting stations or any particular broadcasting station in Eswatini; and
- (b) control and direct all broadcasting services from the broadcasting stations or broadcasting station to which the provisions of paragraph (a) relate; and in so doing may require the exclusive services of the persons employed in, working maintaining or carrying on, the same.

(2) When an officer or an authority is authorized to take over a broadcasting station in terms of subsection (1), the person owning or controlling the broadcasting station shall give up possession to the officer or authority, and the person employed in, working or maintaining the broadcasting station, or in carrying on a broadcasting service from the broadcasting station shall, diligently and faithfully obey, during the period the broadcasting station is in possession of the officer or authority all such orders and other directions as the officer or authority may give in connection with the working or maintenance of the broadcasting station.

(3) Reasonable compensation shall be paid to a person who suffers loss or damage through the exercise of the powers conferred by this section from monies appropriated for that purpose by Parliament in such amount as may be agreed between that person and the Minister.

(4) If a dispute arises as to the amount of compensation payable in terms of subsection (3), any person claiming to be entitled to compensation may refer such dispute to a court of law.

(5) In determining the amount of any compensation including costs or expenses payable under this section, the court or other person dealing with the matter, shall have regard to the fact that the take-over has been necessitated by a state of public emergency.

(6) This section shall, with the necessary modifications, apply in relation to diffusion services, the premise apparatus, equipment and wires required in connection with those services, apparatus, equipment and wires and the persons employed in working, maintaining or operating them.

Directives from Minister in public emergency

68. (1) The Minister may, at any time by notice, require the Commission to direct the licensees specified in the notice to publish, at such times as may be specified in the notice, such announcement as is specified in the notice, with or without visual images of any picture, scene or object mentioned in the announcement.

(2) Where the licensee published any announcement under subsection (1), the licensee may announce that the publication is pursuant to a directive by the Minister.

(3) The Minister may, at any time by notice, require the Commission to direct any licensee specified in the notice to refrain from including in the programmes included in their licensed series, any matter or classes of matter specified in the notice.

(4) Where the Commission-

- (a) gives a licensee a direction in accordance with a notice under subsection (3); or
- (b) in consequence of the revocation by the Minister of a notice referred to in subsection (3); or
- (c) in consequence of an expiry of a notice,

the licensee in question may publish an announcement stating the giving or revocation of the direction, or of the expiration of the notice.

Complaints relating to public broadcasting or broadcasting services

69. Where a person has made a complaint to the Corporation or to a broadcasting licensee on the grounds that the Corporation or licensee has, in providing a broadcasting service, acted contrary to the Code of Conduct and, the person has not received a response within fourteen (14) days after making the complaint, or the person has received a response within that period but considers that response to be inadequate, that person may lodge a complaint with the Commission about the matter.

Investigation of complaints relating to Corporation or other broadcaster

70. (1) Subject to subsection (2), the Commission shall investigate a complaint made under section 58.

(2) The Commission shall not investigate a complaint if it is satisfied that-

- (a) the complaint is frivolous or vexatious or was not made in good faith;
- (b) the complaint is not relevant to a code of practice developed by the Corporation or any broadcasting licensee; or
- (c) the complaint is brought more than three months after the broadcast in question was made.

(3) When considering a complaint under subsection (2), the Commission shall afford a hearing to every interested person.

(4) The hearing referred to in subsection (3) may, at the discretion of the Commission, be held in private.

(5) The Commission shall notify the complainant of the results of the investigation referred to in subsection (1) within a reasonable time.

Action of Commission where complaint justified

71. (1) If, having investigated a complaint, the Commission is satisfied that -

- (a) the complaint is justified; and
- (b) the Commission should take action to oblige the Corporation or other licensee to comply with the relevant code of practice;

the Commission may, by notice in writing to the Corporation or to other licensee, recommend that the Corporation or the licensee take action to comply with the relevant code of practice and take such other action in relation to the complaint as is specified in the notice.

(2) Subject to subsection (1), a licensee may be required to broadcast or publish an apology or retraction.

Proceedings on failure by Corporation or licensee to comply with recommendation

72. (1) Where the Commission has made a recommendation to the Corporation or licensee and the Corporation or licensee does not take action that the Commission considers to be appropriate, the Commission may by notice in writing, within fourteen (14) days after the recommendation was given, require the Corporation or licensee to make good the default within a specified time.

(2) If the Corporation or licensee fails to comply with the notice referred to in subsection (1), the Commission shall apply to the High Court for an order compelling the Corporation or Licensee to remedy the default and the court may make such order on the application as the Commission considers appropriate.

Obligation to keep records

73. A licensee shall-

- (a) keep and store sound and video recordings of all programmes that have been broadcast or re-broadcast for a minimum period of 12 months after the date of transmission of the broadcast or re-broadcast, or for such further period as may be directed by the Commission; and
- (b) on demand by the Commission, produce all material that has been broadcast, for examination or reproduction.

Supervision of programmes

74. (1) For the purpose of maintaining supervision over the programmes included in a licensed service, the Commission may make and use recordings of those programmes or any part of them.

(2) Nothing contained in this Part shall be construed as requiring the Commission in the discharge of its duties under this Part with regard to licensed services and the programmes included in them, to view such programmes in advance of their being included in such services.

Ascertainment of public opinion

75. (1) The Commission shall make arrangements-

- (a) for ascertaining-
 - (i) the state of public opinion concerning programmes included in licensed services;
 - (ii) any effects of such programmes on the attitudes or behavior of persons who watch them; and
- (b) for the purpose of assisting the licensee to perform their functions under this Act in relation to the programmes to be included in the various services for purposes of ascertaining the types of programmes that members of the public would like to be included in licensed services.

(2) Subject to subsection (1), the Commission shall-

- (a) ensure that any research undertaken in pursuance of the arrangement is undertaken by persons who are neither members nor employees of the Commission; and
- (b) include provision for full consideration by the Commission of the full results of any such research.

Offences

76. A person who provides any unlicensed broadcasting service and related service as defined in this Act commits an offence and is liable, on conviction, to a fine not exceeding two hundred and fifty thousand (E250,000) or to imprisonment for a period not exceeding twenty four (24) months, or to both.

Regulations

77. (1) The Minister may make regulations for the better carrying out of the provisions of this Act.

(2) Without prejudice to the generality of subsection (1), the regulations made under that subsection may provide for-

- (a) the registration of dealers with the Corporation and the information to be supplied to the Commission in connection with applications for registration;
- (b) the keeping of books, records and documents, the furnishing of returns and the supply of information to the Corporation relating to the dealings in television receivers;
- (c) the circumstances, terms and conditions subject to which licenses shall be issued;
- (d) the form of licenses, the terms, conditions and periods for which licenses shall remain in force;
- (e) the fees to be paid under the provisions of this Act;
- (f) the form of notice required to be served under this Act;
- (g) the methods of payment and collection of fees payable under this Act; and
- (h) any other matters required to be prescribed under this Act.

(3) Regulations made under this section may as appropriate, be made on the recommendation of the Commission as the case may be.

PART VIII REPEAL AND TRANSITIONAL PROVISIONS

Repeal of the Eswatini Television Authority Act, 1983

78. The Eswatini Television Authority Act, 1983 is repealed.

Vesting of assets and liabilities

79. (1) Upon the commencement of this Act, there shall be transferred to, vest in and subsist in the Corporation by virtue of this Act and without further assurance all assets, rights and obligations which immediately before the appointed date were the assets, rights, liabilities and obligations of the Authority.

(2) Where under this Act, any assets, rights, liabilities and obligations of the Authority are deemed transferred to the Corporation in respect of which transfer the prevailing law provides for registration, the Corporation shall make an application in the manner so required by that law to the appropriate registration authority for registration of such transfer.

(3) Subject to subsection (1), every deed, bond and agreement, other than an agreement for personnel service, to which the Authority was a party immediately before the commencement of this Act or on the appointed date whether or not of such a nature that rights, liabilities and obligations could be assigned, shall unless its subject matter or terms make it impossible that it should have effect as modified, as provided under this section, have effect as if-

- (a) the Corporation had been party to it;
- (b) for any reference to the Corporation there was substituted, with respect to anything falling to be done on or after the commencement of this Act, a reference to the Corporation; or
- (c) for any reference to any officer of the Corporation, not being party to it and beneficially interested, there were substituted, as respects anything falling to be done on or after the commencement of this Act or appointed date a reference to such officer of the Corporation as the Corporation shall designate.

Legal proceedings

80. (1) Without limiting the other provisions of this Act, where any right, liability or obligation vests in the Corporation by virtue of this Act or any other law, the Corporation and all other persons shall, as from the appointed date, have the same rights, powers and remedies, and in particular, the same rights as to the instituting or defending of legal proceedings or the making or resisting of applications to any authority for ascertaining or perfecting that right, liability or obligation as they would have had if at all times a right, liability or obligation of the Corporation.

(2) Any legal proceedings or applications to the Authority pending immediately before the appointed date by or against the Authority in respect of the Authority may be continued by or against the Corporation.

(3) After the commencement of this Act, proceedings in respect of any right, liability or obligation which was vested in, held, enjoyed, incurred or suffered by the Authority may be instituted by or against the Corporation.

Existing rights

81. Upon the commencement of this Act, any existing rights shall continue to be held by the person or licensee as if they were granted under this Act and for the purposes of this Act.

Existing Licensees

82. (1) The Commission shall convert existing licenses by issuing licenses that comply with this Act, on no less favourable terms, to any person who holds a valid license.

(2) All licenses issued prior to the commencement date of this Act shall remain in force until they are converted and re-issued by the Commission under this Act, on no less favourable terms.

(3) Any person or activity which, prior to the commencement date of this Act, was exempt from the necessity to be licensed, is considered to be exempt in terms of this Act unless notified in writing by the Commission that such persons or activities require a license in terms of this Act.

Non Licensed persons or entities providing broadcasting and related services

83. (1) A person providing broadcasting and related services for which there was no requirement to be licensed before the commencement of this Act, and which services are required to be licensed under this Act, shall apply for a license within thirty (30) days of coming into force of this Act.

(2) Any person who, prior to the commencement of this Act, lawfully provided a service without a license is considered to have permission to continue providing the service on the same terms and conditions until such time as the Commission has issued them a license under this Act.

(3) A person referred to in subsection (1) shall continue to provide services pending the determination of the application by the Commission.

(4) A person who contravenes subsection (1) commits an offence and is liable to a fine of two thousand Emalangeni (E2000) for each day during which the contravention continues.

Existing staff of the Authority and Eswatini Broadcasting and Information Service.

84. When the Minister is satisfied that all necessary agreements and arrangements, including the payment of terminal benefits, if any, disengagements, re-engagements and redeployments, have been made for the disengagement of staff of the Authority and Eswatini Broadcasting and Information Services, the Minister shall cause a Notice to be published in the Gazette.

FIRST SCHEDULE**CODE OF CONDUCT FOR BROADCASTING SERVICES***Preamble*

1. The fundamental principle to be upheld is that freedom of all licensees is indivisible from, and subject to, the same restraints as those relevant to the individual person, and that principle is founded on the right of the individual to be informed and to freely receive and disseminate opinions.

General

2. A licensee shall-

(a) Not broadcast any material which is indecent, obscene or offensive to public morals or offensive to the religious convictions or feelings of any section of the population or likely to prejudice the safety of the State or public order or relations between sections of the population;

(b) Present material which depicts or relates to brutality, violence, atrocities, drug abuse and obscenity with due care and sensitivity; and

(c) Exercise due care and responsibility in the presentation of programmes where a large number of children are likely to be part of the audience.

News

3. (1) A licensee shall report news truthfully, accurately and objectively;

(2) News shall be presented in the correct context and in a balanced manner, without intentional or negligent departure from the facts, whether by-

- (a) distortion, exaggeration or misrepresentation;
- (b) material omission; or
- (c) summarization.

(3) News that may reasonably be true, having due regard to the source of the news, may be presented as fact, and such fact shall be broadcast fairly with due regard to context and importance, except that where a report is not based on fact or is founded on opinion, supposition, rumors or allegations, the report shall be presented in such manner as to indicate clearly that the report is founded on opinion, supposition, rumours or allegations.

(4) Where there is reason to doubt the correctness of a report and it is practicable to verify the correctness of that report, the report shall be verified, and where the verification is not practicable, that fact shall be mentioned in the report.

(5) Where it subsequently appears that a broadcast report was incorrect in a material respect, that report shall be rectified without reservation or delay, and the rectification shall be presented with such a degree of prominence and timing as may be adequate and fair so as to readily attract attention.

(6) Reports, photograph or video material relating to matters involving indecency or obscenity shall be presented with due sensitivity, due regard being had to the prevailing moral climate, and a licensee shall avoid the broadcasting of obscene or lascivious matter.

(7) The identity of rape victims and other victims of sexual violence shall not be divulged in any broadcast without the prior consent of the victim concerned.

Commentary

4. (1) A licensee shall be entitled to comment on and criticize events of public importance.

(2) Comment shall be presented in such manner that it appears clearly to be comment, and shall be made on facts truly stated or fairly indicated and referred to.

(3) Comment shall be an honest expression of opinion.

Controversial issues of public importance

5. (1) In presenting a program in which controversial issues of public importance are discussed, a licensee shall make reasonable efforts to fairly present significant points of view either in the same program or in a subsequent one forming part of the same series of programmes presented within a reasonable period of time and in substantially the same slot.

(2) A person whose views have been criticized in a broadcasting program on a controversial issue of public importance, shall be given reasonable opportunity by the licensee to reply to such criticism, should that person so request.

Elections

6. During any period of general, local or parliamentary election, and on the day of such election and ending on the day the poll is to be taken, every licensee shall comply with such guidelines as shall be issued by the Commission and the Elections and Boundaries Commission.

Privacy

7. (1) In so far as both news and comment are concerned, a licensee shall exercise exceptional care and consideration in matters involving the private lives and private concerns of individual, bearing in mind that the right to privacy may be overridden by a legitimate public interest.

(2) A licensee shall not make any payment to any person involved in crime or other notorious behavior, or to persons who have been engaged in crime or other notorious behavior, in order to obtain information concerning any such behavior, unless compelling societal interests indicate the contrary.

SECOND SCHEDULE
PROCEEDINGS OF THE BOARD

1. Subject to the provisions of this Act, the Board may regulate its own proceedings.
2. The Board shall hold its first meeting on such date, place and time as the Minister may determine, and thereafter the Board shall meet for the transaction of business at such places and at such times as the Chairperson may determine.
3. The Chairperson may, upon giving notice of not less than 14 days, call a meeting of the Board and shall call a special meeting to be held within 14 days of receipt of a written request to the Chairperson by at least three members.
4. If the urgency of any particular matter does not permit the giving of such notice as is required under subparagraph (3), a special meeting may be called by the Chairperson upon giving a shorter notice.
5. Five members, not including the Director-General, shall form a quorum at any meeting of the Board.
6. There shall preside at any meeting of the Board-
 - (a) the Chairperson;
 - (b) the Vice-Chairperson in the absence of the Chairperson; or
 - (c) in the absence of both the Chairperson and the Vice-Chairperson, any member as the members present may elect to be Chairperson for the purposes of that meeting.
7. A decision of the Board on any question shall be by a majority of the members present and voting at the meeting and in the event of an equality of votes, the person presiding at the meeting shall have a casting vote in addition to the deliberative vote.
8. The validity of any proceedings, act or decision of the Board shall not be affected by any vacancy in the membership of the Board or any defect in the appointment of any member or by reason that any person not entitled to do so took part in the proceedings.
9. Notwithstanding anything contained in this Schedule, the Chairman may, in any matter he considers exceptional, make arrangements for a decision of the Board to be taken on such matter through a process of consultation without the need for an actual meeting.
10. The Board shall cause minutes of all proceedings of and decisions taken at every meeting of the Board to be entered in books kept for the purpose.

THIRD SCHEDULE

(Under section 43 (1))

DECLARATION OF INTEREST BY BOARD MEMBERS

I, of (state address), being a member of the Board of the Eswatini Broadcasting Corporation Board established under the Eswatini Broadcasting Act, 2019 and in pursuance of the requirements of section 43 of the Act, hereby declare that I do have a direct/indirect/ personal/ professional/business/pecuniary interest in the subject of (state the subject) which has been submitted to, or may be before, the Board and is due for consideration by the Board on or about the day of 20.....

The nature of my interest is as follows (describe nature of interest):

I FURTHER DECLARE that the declaration made herein is correct and true and within my knowledge and I shall not be taking part in the discussion of the interest above described, at the meeting scheduled for the day of....., 20.....(same as date indicated above) or the date to which the subject matter of my declaration maybe adjourned.

DECLARED this day of

Board Member

Received by me, the Secretary of the Board, thisday of20at am/pm