

LAW OF MONGOLIA

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Ulaanbaatar

ON BROADCASTING**CHAPTER ONE****GENERAL PROVISION****Article 1. Purpose of the Law**

1.1 The purpose of this Law is to identify the legal basis for providing broadcasting service, creating favorable environment for fair competition in the market and regulate the relations that arise in conducting broadcasting service in accordance with the national and public interests.

Article 2. Legislation on Broadcasting

2.1. Legislation on Broadcasting shall consist of the Constitution of Mongolia, The Law on Freedom of Press, Law on Communications, Law on Radio Wave, Law on Advertisement, Law on Copyright and Related Rights, Law on Licensing, Law on Competition, this law, and other laws and legislative acts issued in conformity with these laws.

2.2. If an international treaty to which Mongolia is a party to, provides otherwise, the provisions of such international treaty shall prevail.

Article 3. Scope of the Law

3.1. The relations in regard to public radio and television shall be regulated by the Law on Public Radio and Television.

3.2. The relations in regard to use of radio frequency license shall be regulated by the Law on Radio Waves.

3.3. The relations in regard to advertisement of elections of the Presidential, the State Great Khural and the Citizen's Representative Khural of Province and Capital City shall be regulated by the Law on Elections.

3.4. Other relations except for relations in regard to broadcasting advertisement by the broadcast service license provider as defined in article 22 of this law shall be regulated by the Law on Advertisement.

3.5. The relations in regard to providing broadcasting service except for relations as defined in article 3.1 to 3.4 of the law shall be regulated by this Law.

Article 4. Definitions of terms used in this Law

4.1. The following terms used in this law shall be interpreted as follows:

4.1.1. “Broadcasting” means the dissemination of pre-planned program from one point using the information and communication networks and devices to the public consumption;

4.1.2. “Broadcasting service” means services defined in article 4.1.3, 4.1.4 and 4.1.5 of this law;

4.1.3. “Terrestrial radio and television broadcasting service” means providing services defined in article 4.1.7.1 and 4.1.7.2 of this law to the specific coverage area on the basis of contract by establishing terrestrial digital network using radio frequency

4.1.4. “Multi-channel distribution service” means delivering multiple radio and television channels via wired, wireless and satellite networks to the customers on the basis of contract;

4.1.5. “Radio and television service” means services as stipulated in article 4.1.6 and 4.1.7 of this Law by preparing and transmitting the content in accordance with program schedule to the public via terrestrial radio and television, multi-channel internet distribution networks;

4.1.6. “Public radio and television” means non-profit radio and television services that serves for public only as stipulated in the Law on Public Radio and Television.

4.1.7. “Commercial radio and television” means a legal person with private sector investment to conduct business for profit;

4.1.7.a. “Free-to-air radio and television” means a program delivery service at no charge to the public via terrestrial radio and television networks;

4.1.7.b. “Paid radio and television” means a program delivery service to public via multi-channel distribution service providers;

4.1.8. “Content” means electronic forms of all kinds of information containing word, sound, sign, signal, text, image, graphic and animation that transmit via communications network;

4.1.9. “Program” means a package of all kinds of programs that included in the schedule of radio and television broadcast.

4.1.10. “Broadcast” means all types of contents prepared for radio and television transmission.

4.1.11. “Mongolian content” means broadcast material produced by Mongolian Citizen or at least one third of Mongolian Citizens of the Production team;

4.1.12. “News” means daily news program about Mongolian or international current events;

4.1.13. “Subscription program” means a program produced and broadcasted by the request made to radio and television broadcasting service providers;

4.1.14. "Channel" means network capacity unit that transmits the radio and television program

4.1.15. "Sponsor" means a legal person who provides financial and other supports to produce the program;

4.1.16. "Captions" means text expression of voice and image for people with [visual and hearing] disability;

4.1.17 "Affiliated Persons" means an individual or legal person who is in association with another individual or legal person for profitable operations;

4.1.18 "For-profit operations" means all kinds activities including economic, trade, credit, financial activity of the company, partnership and sole proprietorship;

4.1.19. "Basic package" means services defined in the article 4.1.6 and 4.1.7 of this law.

CHAPTER 2.

PRINCIPLES OF BROADCASTING AND TYPES OF SERVICES

Article 5. Broadcasting policy and coordination, and principle for broadcasting service providers

5.1. To cherish the human rights and freedom, justice and the rule of law and as well as the National unity and the National Security Concept of Mongolia;

5.2. To uphold the traditions of national statehood, history, culture and language and national values;

5.3. To respect the accomplishments of human civilization, heritage and values;

5.4. To respect pluralism on politics, religion, society and economics;

5.5. To be independent and impartial from the government organizations and religious Institutions and political party;

5.6. To develop journalism that is professional and responsible and to follow the journalist ethics;

5.7. To respect public common interest and citizen rights to receive accurate and balanced information;

5.8. To ensure not to negatively impact on mentality or ethics of children and adolescents;

5.9. To foster broadcast responsible and professional journalism and norms of journalistic ethics;

5.10. To encourage the development of broadcasting sector, create favorable environment for market competition and prevent broadcasting form over concentration of ownership;

5.11. To encourage Mongolian contents;

5.12. Not to contravene with the generally applicable rules to follow.

Article 6. Types of broadcasting service

6.1. Broadcasting service shall be in following forms:

6.1.1. Terrestrial radio and television transmission service;

6.1.2. Multi-channel distribution service;

6.1.3. Public radio and television service; and

6.1.4. Commercial radio and television service.

6.2. Broadcasting service coverage area shall be determined by the Territory of Mongolia and a particular territory of Mongolia.

6.3. If there is limitation in broadcasting service range, the Communications Regulatory Commission (hereinafter referred as the Regulatory Commission) shall specifically state the broadcasting service coverage area in the license.

CHAPTER 3. PROVIDING BROADCASTING SERVICE

Article 7. General requirements to provide broadcasting service

7.1. Broadcasting service shall be provided with license issued by the Regulatory Commission.

7.2. Broadcasting service license shall granted to Mongolian citizen and legal persons registered in Mongolia.

7.3. Broadcasting service license shall be prohibited to the following legal persons:

- 7.3.1. Government organization and government officials;
- 7.3.2. Political party or non-governmental organization that operates under the political party;
- 7.3.3. Legal entity with more than one-third of foreign investment
- 7.3.4. Religious Institution
- 7.3.5. Private entities with more than one-third of foreign citizens in Board of Directors or the Management Team /director, deputy director, manager/

Article 8. Prevention from over concentration of ownership

8.1. No citizen and legal entity shall possess more than one nationwide broadcast service license.

8.2. An individual may possess independently and a legal entity may possess independently or with its Daughter Company or subsidiary no more than one radio and television broadcast service license for each.

8.3. It shall prohibited to possess overlapping license in same territory similar to license with particular service coverage area.

8.4. License holder authorized to provide service to nationwide and local territory shall not involve directly or indirectly to same type of service providers.

8.5. The State Administrative Body in charge of Competition and the Regulatory Commission shall jointly approve the regulation on ensuring the creation favorable condition for competition and prevention from over concentration of ownership in the broadcasting sector.

Article 9. Ensuring the transparency of ownership

9.1. The ownership shall be transparent in order to ensure the independent, open and ethical broadcasting.

9.2. License holder shall disclose following information on license ownership by December 31st of each year to the Regulatory Commission.

9.1.1. family name, surname, name of shareholders with shares of more than 5 percent, the list of authorized officials, address, introduction and detailed information of the company, If the license holder is a company;

9.1.2. Name, type, number of another ownership of broadcasting licenses and detailed information about its operations;

9.1.3. Ownership of share in the capital of another broadcasting license holder and investment capital, in case of partnership;

9.2. The broadcast license holder shall notify the Regulatory Commission in writing about changes concerning shareholder with shares of more than 5 percent or authorized official no later than 30 days after such changes.

9.3. The Regulatory Commission shall undertake necessary measures to create condition for fair competition in the broadcasting sector and to prevent from over concentration in accordance with relevant regulation upon acquaintance with information specified in article 12.1 of this law.

9.4. The Regulatory commission shall disseminate information on license ownership to the public.

9.5. [The Regulatory Commission] shall undertake measures to revoke the license if [license holder] failed to disclose ownership information of the broadcast license.

Article 10. Development fund for national broadcasting

10.1. Development fund for national broadcasting shall be disbursed in improving the quality of Mongolian content, producing the priority and high cost content, creating necessary infrastructure and supporting the services specified in article 4.1.7.1 of this law.

10.2. The finance of Development fund for national broadcasting shall consist of the following sources:

10.2.1. State Budget;

10.2.2. Service fee from various service providers of all kinds of intellectual contents including enlightenment, awareness, and educational contents and fee from consumers;

CHAPTER 4. LICENSE

Article 11. Principles for issuing a license

11.1. The Regulatory Commission shall observe the following principles in granting the license in addition to those specified in relevant legislation:

11.1.1. It shall be based on studies on condition of competition, needs, population and its density and market capacity;

11.1.2. License of Terrestrial radio and television transmission service and multi-channel distribution service shall not be granted together and the ownership shall be independent;

Article 12. Issuance of License and refusal of license application

12.1. The relations in regard to broadcasting service license shall be regulated by the regulation of procedure on license for business activities in the communications sector issued by the Regulatory Commission in conformity with relevant laws and legislations;

12.2. [The Regulatory Commission] may refuse to grant a license in accordance with following grounds in addition to article 14.2 of the Law on Communications and article 11.2.2 of the Law on radio Wave:

12.2.1. If the applicant has not started its business, and has not reached 1 year since license issuance;

12.2.2. It is proven that false application documents have been submitted to receive the license;

12.2.3. If the applicant failed to satisfy the necessary investment, technical equipment and professional staff planning to provide broadcasting service and the program policy is inconsistent with this law and other legislations;

12.3. If a broadcasting service provider requests to own an additional license, it shall comply the contract performance and the terms and condition of the license.

Article 13. Service Fee

13.1. The License holder shall pay stamp duty for regulatory service fee, use of radio frequency and service fee as specified in the Law on State Stamp Duties¹.

Article 14. Term of License

14.1. The license shall be issued for more than 3 years.

14.2. The License holder shall submit request of extension to the Regulatory Commission 90 days before the license expiration.

¹ Law on State Stamp Duties was published in "Turiin medeelel #25", 2011

Article 15. Suspending a License

15.1. The license shall be suspended and operation shall be halted up to 90 days on the following grounds in addition to article 13 of the Law on Licensing.

15.1.1. If it is concluded unsatisfactory upon the inspection by the Regulatory Commission.

15.1.2. If it conducts activities not specified in direction and scope of license

15.1.3. If it is proven that it has breached the Intellectual property rights upon the conclusion of the state inspector or State central administrative body in charge of intellectual property.

Article 16. Revoking a License

16.1. The Regulatory Commission shall revoke a license in the following grounds:

16.1.1. The Legal entity has been dissolved;

16.1.2. It is proven that false application documents have been submitted to receive the license;

16.1.3. If it has breached the terms and conditions of the license and legislations;

16.1.4. If the demand to rectify the violations has not been met within the suspension period of license;

16.2. If license holder shall submit the evidence documents to the Regulatory Commission, if it doesn't agree on grounds to revoke the license specified in article 16 of this law.

16.3. The Regulatory Commission shall inspect the evidence as specified in article 16.2 of this law and it shall cancel the notice of revocation of license if it is acceptable. The Regulatory Commission shall inform the license holder if it has considered the evidence is not acceptable and shall revoke the license.

16.4. The License holder shall be entitled to claim to the Court, if it disagrees with decision to revoke the license as referred in the article 16.3 of this Law.

Article 17. Grounds for termination of license

17.1. The license shall be terminated with the following cases:

17.1.1. Term of validity of the license has been expired;

17.1.2. The Regulatory commission has revoked the license.

Article 18. Prohibition on transfer of license

18.1. Pursuant to Article 5.3 of the Law on Licenses of Legal Entities, it shall be prohibited to sell, pledge, present and transfer the the license to others without any consent from the issuing organization.

CHAPTER 5.

REQUIREMENT FOR BROADCASTING SERVICE PROVIDERS

Article 19. Requirement for broadcasting service providers

19.1. Broadcast service provider shall conduct operations within the scope and classification of the license.

19.2. Technical equipment of preparation, broadcasting and transmission of program shall comply with the network standards and requirements of reliable operations.

19.3. It shall obey the requirements for broadcasting service providers as approved by the Regulatory Commission.

Article 20. Requirement for terrestrial radio and television transmission providers

20.1. Terrestrial radio and television provider shall work independently and shall provide equal opportunity to connect to network for the radio and television service providers and the price shall be transparent;

20.2. Terrestrial radio and television provider shall fully comply the maintenance, regular, continuous and reliable operation of the network.

20.3. The Government shall be responsible for the network maintenance of services specified in article 4.1.7.1 of this law and Mongolian public radio and television shall broadcast radio and television program that is compulsory to be delivered to the citizens nationwide.

Article 21. General requirement for the program

21.1. Radio and television broadcast service provider shall prepare and broadcast the program in Mongolian language which is official language of Mongolia.

21.2. Foreign program shall be broadcasted with voiced and or subtitled in Mongolian;

21.3. It shall broadcast own and copyrighted contents;

21.4. It shall obey the regulations on broadcast in the event of state of emergency and disaster;

21.5. Program may broadcasted with captions for people with disabilities;

21.6. Program requirement shall be determined by the percentage of the following contents:

21.6.1. Mongolian content;

21.6.2. Local content ;

21.6.3. Own content;

21.6.4. Program of captions for people with [visual and hearing] disability;

21.6.5. Television program with rights to broadcast nationwide

21.12. Foreign contents should not conflict with the National interest and National Security of Mongolia.

21.13. News shall be broadcasted in manner of true, accurate, fair, balanced and independent and ensured the use of multi-source information;

21.14. News shall be distinguished by advertisement and subscription program.

21.15. Radio and television service providers shall take measures to restrict inappropriate contents in order to protect the child, teen and adolescents.

Article 22. Advertisement

21.16. Start and end of advertisement shall be broadcasted with recognizable sound and video.

21.17. Regulation on teleshopping, program sponsorship and limits on hourly advertisement of the radio and television shall be regulated by the regulation adopted by the Regulatory Commission.

21.18. No advertisement shall be allowed to be broadcasted for multi-channel distribution service provider during the broadcasts of channel and program.

21.19. No advertisement shall be allowed to be broadcasted during broadcast in the event of declaration of the state of emergency or disaster.

21.20. Broadcast service providers shall not prepare and broadcast advertisement which prohibited by the Law on Advertisement.

Article 22. Archiving

22.1 The broadcasting service provider shall keep the program for 60 days or more after it's been broadcasted.

22.2 In cases of dispute, news and program related to the dispute shall be retained until the dispute is settled.

Article 24. Requirement of Multi-channel distribution service providers

24.1. Foreign channels of broadcast should not conflict with the National interest and National Security of Mongolia.

24.2. Multi-channel distribution service providers shall broadcast program on the basis of contract.

24.3. Multi-channel distribution service providers shall broadcast radio and television program with permission to broadcast on that territory.

24.4. Multi-channel distribution service providers is prohibited to make changes and set restriction without the approval of the competent authorities.

24.5. Basic package of Multi-channel distribution service provider shall include radio and television service as stipulated in article 4.1.7.1 of this law.

24.6. Article 26.5 of this law shall be regulated by the regulations issued by the Regulatory Commission.

CHAPTER SIX

PROHIBITIONS IN BROADCASTING SERVICE

Article 25. Prohibitions in broadcasting service

25.1. Broadcasting license holders shall avoid preparing and broadcasting the following types of programs:

25.1.1. Broadcasting program containing harmful influence on the intellectual development of children and adolescents, advertisement of violence and pornography, detailed instruction to criminal activities and preparation and use of drugs;

25.1.2. Broadcasting program and advertisement containing material to incite ethnic or religious hatred;

25.1.3. Broadcasting program and advertisement containing material to encourage hatred and discriminations that is offensive to any person or group on the basis of ethnic background, language, race, gender, social origin, property, religion, opinion and sexual preference or disability or any other features or status.

25.2. Sponsorship of broadcast program shall prohibit to citizen and legal entity that produce goods and products restricted by the laws of Mongolia.

25.3. Sponsoring citizen and legal entity shall be prohibited to influence content and timing of broadcast program and independence and impartiality of journalists and editors in any forms;

CHAPTER SEVEN. RIGHTS AND OBLIGATIONS OF STATE BODIES IN CHARGE OF BROADCASTING POLICY AND COORDINATION

Article 27. Powers of the Government

27.1. To implement the government policy on broadcasting and organize the implementation measures of legislation;

27.2. To determine numbers of radio and television broadcast service as stipulated in article 4.1.7 of this law.

27.3. To collect the development fund for national programs and approve the regulation on its disbursement.

Article 28. Rights and obligations of State administrative body in charge of communications

28.1. To develop the state policy on broadcasting.

28.2. To represent Mongolia in international broadcasting organization

28.3. To develop and approve resolution on broadcasting news and programs in the events of state of emergency and disaster.

28.4. To develop regulation on collection and disbursement of the development fund for national programs jointly with other stakeholders.

28.5. Other rights and obligations stated in the law.

Chapter 29. Rights and obligations of Communications Regulatory Commission

29.1. To ensure and oversee implementation of Government policy, Policy guideline on broadcasting and relevant laws;

29.2. To disclose information on ownership of broadcast service providers to the public and take measures to prevent from over concentration of ownership.

29.3. To approve and ensure the implementation of the resolution on criteria and requirement for selecting nationwide radio and television broadcast via terrestrial radio and transmission network.

29.4. To ensure the creation of fair competition environment for broadcasting service providers and to conclude annually;

29.5. To approve the conditions and requirement for broadcast service license, monitor the implementation and take necessary measures.

29.6. To determine the revenue sharing principles between the broadcasting service providers.

29.7. To approve the program requirements as stipulated in article 21.6 of this law.

29.8. The Regulatory Commission shall approve the conditions and requirements, work procedures required for operations of the Integrated Communication Center

29.9. Other rights and obligations stated in the Law.

CHAPTER EIGHT

SUPERVISION

Article 30. Supervision over broadcasting operations

30.1. The Regulatory Commission, relevant state administrative bodies and state inspector shall work to control the implementation of this law.

30.2. The state inspector of communications shall work to control implementation of broadcasting service, operations and technological process.

30.3. The state inspector shall work to control the implementation of legislation, rules, regulations, guidelines and standards of the broadcasting.

Article 31. Liability of breach of law on broadcasting

31.1. If breach of Law on Broadcasting does not constitute a criminal offence, the judge or state inspectors shall impose the following administrative penalties on the offender within the Offence Code, this law and other relevant laws:

31.1.1. If the activity of broadcasting service is conducted without proper licensing, illegal income derived from such activities shall be confiscated

and individual offender shall be fined in the amount of 10-15 time the minimum wage;

31.1.2. License holder who breached the technological process, standards and technical condition and other provisions stipulated in this Law shall be imposed a fine in the amount of 5-10 times the minimum wage;

31.1.3. License holder who breached the article 26 of this law and conducted prohibited activity shall be imposed a fine in the amount of 25-30 times the minimum wage;

31.1.4. Person who breached the article 27 of this law shall be imposed a fine in the amount of from twenty five to thirty times the minimum wage and if repeated, the offender shall be imposed a fine in the amount of 30-40 times the minimum wage;

31.1.5. Official who issued a license by breaching the article 27.1 and 27.2 of this law shall be imposed shall be dismissed from the job without right to work as a civil servant and imposed a fine in the amount of 30-40 times the minimum wage.

Article 32. Enforcement of the Law

32.1. This Law shall come into force from the ..., 2017.

SIGNATURE