



Public Utilities
Regulatory Authority
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GUIDELINES ON OWNERSHIP AND CROSS- OWNERSHIP IN THE BROADCASTING SECTOR

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In exercise of the powers conferred upon the Authority under Section 14 (I) (g) of the PURA Act 2001, the Authority hereby makes the following Guidelines for Ownership and Cross Ownership in the Broadcasting Sector

In subsequent reference to Section 227 (e) of the Information and Communications Act, 2009 requiring the Authority to *"ensure a limitation in cross ownership between broadcasters, signal distribution licensees, newspapers, electronic communication licensees and advertising agents, these Guidelines are hereby made.*

1 DEFINITIONS

- a) "Controlling interest" - This refers to owners with majority shareholding interests greater than 50% of shares in a given entity
- b) "Broadcasting Stations" means television and radio stations but does not include any station owned or operated by or under the authority of the Government;
- c) "GOTG" means Government of the Republic of The Gambia
- d) "Entity" includes any company or association or body of persons corporate or incorporate.
- e) "Licensee" means a person who owns, operates or provides an information and communications network or electronic communications service under a licence granted under the I C Act 2009
- f) "Newspaper" means any paper containing and reporting any public news, intelligence or occurrences or any remarks, observations or comments thereon printed and published for sale in The Gambia periodically, or in parts or numbers, but does not include any paper published by or under the authority of the Government.

2 PREAMBLE

These Guidelines set forth the principles and procedures to be followed by Broadcasting Licensees & Applicants in their ownership requirements and shareholding structure.

3 SHORT TITLE, EXTENT AND COMMENCEMENT

These Guidelines shall be:

- i. Referred to as the Guidelines on Ownership and Cross-Ownership in the Broadcasting sector.
- ii. Applicable to all licensed Broadcasters, Signal Distribution licensees, newspapers, electronic communication licensees and advertising agents

3.1 COMMENCEMENT

- i. Come into force with effect from 21st July 2017

4 OBJECTIVES OF THE GUIDELINES

These guidelines are developed and put in place to ensure that the Authority, subscribers and the general public are well informed of Ownership Interests, Cross- ownership and the plurality of views in the Broadcasting sector in The Gambia.

These Guidelines have the following objectives:

- I. to fulfill the purpose of Section 227 (e) of the Information & Communications Act, 2009
- II. to ensure media plurality in contributing towards a robust democratic society. This would allow the general public to be able to consume a wide variety of Information across TV, Radio and other media outlets.
- III. Limit the options of consolidation of ownership, stifling market growth and the possibility of forcing out the small market players.
- IV. Encourage diversity of ownership in the broadcasting sector.
- V. Minimize the ability of single entities/individuals to control and exert undue influence in the broadcasting sector.
- VI. Ensure the development of a competitive media landscape through the licensing of multiple media outlets
- VII. Enforcing The Gambia's broadcasting policy limitations on Foreign ownership for both Signal Distributors and Content Providers
- VIII. Enable the Authority keep up to date on changes in ownership with licensed entities

5 GENERAL PRINCIPLES

The Guidelines for Ownership and Cross Ownership in the Broadcasting Sector have been developed in accordance with the following principles:

- i. Full Disclosure of Owners and Ownership Interests in the broadcasting sector
- ii. The transfer and Sale of Shares between entities
- iii. Exemptions for Broadcasting licenses issued to State Owned Enterprises of the Government of The Gambia
- iv. Direct/Indirect Ownership Interests will be factored in the calculation of ownership stakes across all levels of the ownership chain
- v. This guideline does not apply to the concessional agreement between EXCAF and the GOTG for the duration of the concession

6 Limitations of Ownership between Broadcasters

The following shall apply to limitations on cross ownership between Broadcasters licensed by the Authority:

- i. An Individual/Entity may have a controlling interest in both a TV and Radio Station license
- ii. Any Individual/entity cannot have a controlling interest in more than 2 radio and TV licenses.
- iii. An individual/ entity can have up to two TV Content Provision licenses. A CP Licensee may have multiple channels under the same license subject to the relevant license conditions.

7 Limitations of Ownership between Signal Distributors in the Broadcasting sector

The following shall apply to limitations on cross ownership between Signal Distributors involved in broadcasting and licensed by the Authority:

- i. A signal Distributor with a signal distribution license is eligible for **only one** content provision license
- ii. Any entity with a Signal Distribution license and a content provision license shall divest of its Controlling interest in Content Provision prior to the acquisition or establishment of a newspaper
- iii. Limitations on Foreign ownership as stated in broadcasting policy of The Gambia still apply.
- iv. Any individual with a controlling interest in a signal distributor licence and TV/Radio licenses shall divest of its ownership in its TV/Radio license prior to obtaining a controlling interest in a newspaper

8 Limitations of Ownership for Newspaper entities in broadcasting sector

The following shall apply to limitations on cross ownership between Newspaper entities involved in broadcasting sector:

- i. Individuals/Entities with shareholding interests in Newspapers cannot hold more than 49% stake in Radio **and/or** TV content provision licenses
- ii. Existing newspapers cannot hold more than 49% stake in a Radio **and/or** TV license
- iii. Any entity/individual with a controlling interest in a TV **and/or** Radio station license must not have more than a 49% stake of a newspaper

9 Limitations of Ownership for Advertising Agents in the Broadcasting Sector

The following shall apply to limitations on cross ownership between Advertising Agents involved in the broadcasting sector:

- i. Individuals/Entities with controlling interests in an Advertising Agency should not hold a controlling interest in a Radio and TV station license
- ii. Existing Advertising Agencies cannot hold more than 49% stake in a Radio **and /or** TV license.

10 Limitations of Ownership for Electronic Communication Licensees in Broadcasting

The following shall apply to limitations on cross ownership between Electronic Communication Licensees involved in broadcasting and licensed by the Authority:

- i. Individuals/Entities with controlling interests in Electronic Communications Licensees cannot hold a more than 49% stake in any TV/Radio license.
- ii. Existing Electronic Communication Licensees cannot hold more than 49% stake in any TV/Radio license
- iii. Individuals/Entities with controlling interests in Electronic Communication licensees and TV/RADIO broadcasting licenses are prohibited from controlling any ownership stakes in National newspapers
- iv. To determine the levels of cross ownership, ownership stakes in the different entities will be multiplied to arrive at the adequate level of ownership (e.g % Shares in Company A * % Shares in Company B * % shares in proposed licensee).

11 Ownership of Broadcasting Licenses by Political Parties

- i. Political Parties are prohibited from owning any category of Broadcasting Licenses (TV & Radio).

12 Submission of Ownership Control Records

Licensees must maintain accurate records and details of owners indicating the following:

- i. Record of **all** owners indicating their name(s), address, telephone numbers and e-mail addresses
- ii. Number of shares and percentage ownership within the licensed entity
- iii. Names and shareholding interests of Board of Directors
- iv. A licensee must file with the Authority, an ownership report of the preceding calendar year, no later than 31st January in the subsequent year. (i.e. Ownership reports for the period ended 31st December 2017 must be submitted to the Authority no later than 31st January 2018)

13 Sale of Shareholding/ Transfer of Ownership

- i. A licensee shall obtain prior approval from the Authority in the event of any changes or adjustments in the shareholding structure of the licensed entity
- ii. The purchase/sale of any shares in the categories mentioned above must be approved by the Authority prior to the completion of the transaction

14 Mergers

The following shall apply in the event of any proposed mergers in the broadcasting sector:

- i. Formal notification must be sent to the Authority by the parties involved
- ii. The merger shall follow the dictates of the Competition Act, 2007

15 Review of the Guidelines

- i. Being cognizant of the evolving nature of new and mass media, The Authority shall undertake periodic review of these guidelines to ensure their applicability and relevance in the modern landscape

16 NON COMPLIANCE

Any Licensee that violates any provision of these Guidelines shall be sanctioned in accordance with the PURA's Enforcement Regulations 2010.

17 EFFECTIVENESS

These Guidelines shall become effective from the 21st July 2017.

Issued By

PUBLIC UTILITIES REGULATORY AUTHORITY

DATED THIS DAY OF

Director General