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LEGAL NOTICE NO. 71 OF 2004

LESOTHO TELECOMMUNICATIONS AUTHORITY

(BROADCASTING) RULES 2004

Pursuant to section 16(2) of the Lesotho Telecommunications Authority Act, 2000¹, the Authority makes the following Rules:

**PART I
PRELIMINARY**

Citation and commencement

1. These Rules may be cited as the Broadcasting Rules, 2004 and shall come into operation on the date of publication in the Gazette.

Interpretation

2. In these Rules any word to which a meaning has been assigned in the Act, shall have that meaning and unless the context otherwise requires -

“**advertisement**” means any item which is broadcast in return for payment or other valuable consideration to a broadcaster and which seeks-

- (a) to sell to a listener or viewer any product or service;
- (b) to convince a listener or viewer of a belief or course of action; or
- (c) to promote or oppose a product, service, belief, course of action, person or organization,

but which excludes party-political advertisements;

“**assigned frequency**” means the center of the frequency band assigned to a broadcasting service;

“**Authority**” means Lesotho Telecommunications Authority established by section 4 of the Act;

“**broadcasting service**” means a single, defined service which consists in the broadcasting of programming to the public or sections of the public or to the subscribers to such service;

“**children**” means persons under the age of 18 years or other legally protected persons;

“**coverage area**” means the areas identified and designated as areas to which a licensee shall provide service;

“**licensee**” means a person holding a sound or television broadcasting licence issued by the Authority;

“**party-political broadcast**” means a programme which is -

- (a) broadcast free of charge; and
- (b) which is intended or calculated to advance the interests, beliefs or objects of a political party;

“**party-political advertisement**” means an item which is-

- (a) broadcast in return for payment or other valuable consi-

deration to a broadcaster; and

- (b) which is intended or calculated to advance the interests, beliefs or object of any political party;

“**political party**” means a party, or any alliance of parties, which is registered as a political party under the laws of Lesotho, or which has publicly declared its intentions to register as a political party or to contest elections on a local or national level, or any alliance of such parties;

“**programme**”, except as and where otherwise indicated, means sounds that are intended to inform, enlighten or entertain or advertise or sponsorship matter, whether or not of a commercial kind;

“**sponsorship**” means any item of publicity, other than an advertisement, broadcast in return for payment or any other valuable consideration to a broadcaster;

“**station**” means one or more transmitters or receivers or a combination of transmitters and receivers including the accessory equipment necessary at one location for carrying on a radio communication service;

“**the Act**” means the Lesotho Telecommunications Authority Act 2000.

PART II RECORDS

Records to be kept by licensee

1. (1) A licensee shall retain the following documents for the duration of the licence period, or such other period as the Authority may determine:
 - (a) the documents of incorporation of the company in whose name the broadcasting licence is being held, and any amendment approved by the Authority;
 - (b) the Shareholders’ Agreement which was contained in the application for the licence and any amendments approved by the Authority;
 - (c) the annual audited financial statements reflecting the gross and net income of the licensee in respect of its broadcasting service;

- (d) resolutions of the board of directors;
 - (e) records of employees; showing number of employees, positions occupied, qualifications and citizenship;
 - (f) weekly programme schedules;
 - (g) daily programme logs showing programme categories and time allocated to each category;
 - (h) advertising logs showing all advertisements broadcast, the number of minutes of advertising per hour and advertising rate cards;
 - (i) detailed sponsorship logs;
 - (j) a list of music tracks played on the radio station indicating the music format, the percentage Sesotho music of total music played and percentage African music of total music played;
 - (k) a list of complaints received and responses to complaints by the licensee.
- (2) Original recordings of all programmes broadcast shall be retained by the licensee for a period of at least 3 months.

Submission of records to the Authority

4. (1) The records set out in rule 3(1)(e) shall be submitted to the Authority within 3 months after the licensee's financial year-end.
- (2) Records referred to in rule 3 shall be submitted to the Authority on request.

Production of records

5. A licensee shall produce, on demand, or on such other date as the Authority may specify, any record or document, specified in rule 3 or such other record or document which the Authority may require.

**PART III
CODE OF PRACTICE**

Community standards

6. A licensee shall not broadcast content which, measured by contemporary community standards -

- (a) offends against good taste or decency;
- (b) contains the gratuitous use of offensive language, including blasphemy;
- (c) presents sexual matters in a gratuitous, explicit and offensive manner;
- (d) glorifies violence;
- (e) is likely to incite crime or lead to disorder; or
- (f) is likely to incite or perpetuate hatred against or gratuitously vilifies any person or section of the community on account of race, ethnicity, nationality, gender, marital status, sexual preference, age, physical or mental disability, religion or culture.

Protection of children

7. (1) When broadcasting programmes where a large number of children may be expected to be listening, a licensee shall exercise due care in avoiding content which may disturb or be harmful to children which includes, but is not limited to -

- (a) offensive language; or
- (b) explicit sexual or violent material, including music with violent or sexually explicit lyrics.

(2) In determining when children are part of the audience, a licensee shall take into account available audience research as well as the time of broadcast.

Fairness, accuracy and impartiality in news and information programmes

8. (1) A licensee shall report news and information accurately, fairly and impartially.

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

- (a) distortion, exaggeration or misinterpretation;
- (b) material omissions; or
- (c) summarising or editing.

(3) A licensee may only present as fact, matters which may reasonably be true, having regard to the source of the news or information, and facts shall be broadcast fairly with due regard to context and importance.

(4) Where reports are not based on fact or are founded on opinion, supposition, rumours or allegations, a licensee shall present it in such a manner as to indicate clearly that this is the case.

(5) Where there is a reason to doubt the correctness of a report and it is practical to verify the correctness thereof, it shall be verified. Where such verification is not practical, this fact shall be mentioned in the report.

(6) Corrections of factual errors shall be broadcast without reservation as soon as reasonably possible after the original error.

(7) Corrections of errors shall be presented with such a degree of prominence and timing as may be adequate and fair so as to easily attract attention, and shall include an apology where appropriate.

News and information programmes on controversial issues

9. (1) A licensee shall ensure that, in reporting on controversial issues of political, industrial or public importance, an appropriate range of views are reported either within a single programme or in a series of programmes which are as adjacent as reasonably possible.

(2) When covering controversial issues of political, industrial or public importance during phone-in programmes, a licensee shall ensure that a wide range of opinions is represented over a reasonable period of time.

(3) A person or organization whose views have been criticized during a

programme on a controversial issue of public importance, shall be offered a reasonable opportunity by the licensee to reply to such criticism and the reply shall -

- (a) be given a similar degree of prominence; and
- (b) be broadcast during a similar timeslot as soon as reasonably possible after the original criticism.

(4) For the purposes of this section, “programme” includes news bulletins, current affairs and information programmes, interviews, and panel and phone-in discussions.

(5) Programmes presenters shall ensure that offensive language to other people is avoided during phone-in or live programmes.

Conduct of interviews

10. (1) Persons who are to be interviewed by the licensee shall -

- (a) be advised of the subject of the interview; and
- (b) be informed beforehand whether the interview is to be recorded or broadcast live.

(2) Before conducting an interview with a child, a licensee shall request permission in writing from the child’s parent or guardian to conduct the interview.

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

Comment

11. (1) A comment, whether by the licensee or by a person invited on air by the licensee, shall be presented in a manner that clearly indicates that it is a comment.

(2) A comment shall be an expression of opinion and shall be based only on facts.

Privacy

12. (1) The licensee shall not present material which invades a person’s pri-

vacy and family life unless there are identifiable public interest reasons for doing so.

(2) A licensee shall not use information acquired without a person's consent unless the information so acquired is essential to establish the credibility and authority of a source, and where the programme for which the information is required is clearly of important public interest.

(3) Subject to the laws of Lesotho, the Journalists' Convention in relation to the protection of sources who require confidentiality shall be respected.

(4) A licensee shall ensure that identity of a victim of a sexual offence is not divulged in any broadcast, unless the victim consents in writing to the disclosure of his or her identity.

(5) Notwithstanding sub-rule(4), a licensee shall ensure that the identity of a child victim of a sexual offence is not divulged in any broadcast under any circumstances.

(6) A licensee shall avoid gratuitous and repetitive detail in covering sexual offences.

Payment for information obtained from criminals

13. A licensee shall not pay persons involved in crime or persons who have been engaged in crime to obtain information unless there is a compelling public interest to do so.

Party-political broadcast and advertisements

14. (1) A licensee shall not be required to broadcast a party-political advertisement but if it elects to do so, it shall afford all other political parties a similar opportunity.

(2) In making party-political advertising time available to political parties, licensee shall not discriminate against any political party or give preference to any political party or subject any political party to any prejudice.

(3) A licensee shall not broadcast a party-political advertisement unless it is submitted on behalf of a political party by its duly authorized representative.

(4) A party-political advertisement shall be wholly under the editorial control of the political party which places the advertisement.

(5) If the programming of the licensee extends to the political parties and issues relevant thereto, the licensee shall provide reasonable opportunities for the discussion of conflicting views and shall treat all political parties equitably.

(6) In the event of any criticism against a political party being levelled in a particular programme of a licensee without such party having been afforded an opportunity to respond thereto in the same programme or without the view of such political party being reflected therein, the licensee shall afford such party a reasonable opportunity to reply to the criticism.

(7) The opportunity to reply referred to in sub-rule (6) shall be broadcast with the same degree of prominence and, where applicable, in substantially the same time slot as the initial criticism.

PART IV ADVERTISEMENTS AND SPONSORSHIP CODE

Community standards, accuracy and fairness in advertisements

15. (1) A licensee shall ensure that broadcast advertisements -

- (a) are decent; and
- (b) conform to the principles of fair competition in business.

(2) A licensee shall ensure that advertisements do not contain any descriptions, claims or other material which might, directly or by implication, mislead about the product or service advertised or about its suitability for the purpose recommended.

(3) Before accepting advertisements a licensee shall be satisfied that any descriptions and claims have been adequately substantiated by the advertiser.

(4) A licensee shall ensure that advertisements do not unfairly attack, or discredit other products or advertisements directly or by implication.

(5) A licensee shall not unreasonably discriminate against or in favour of any particular advertiser.

Scheduling of advertisements

16. (1) Advertisements breaks shall be clearly distinguishable from programming.
- (2) When presenters play advertisements a clear distinction should be made between the programming material and the advertisements which they deliver.
- (3) A licensee shall exercise responsible judgement when scheduling categories of advertisement that may be unsuitable for children during periods when children may be expected to be listening.
- (4) Indirect advertising shall not be allowed during live or phone-in programmes.
- (5) Presenters shall refrain from commenting on advertisements.

Sponsorship

17. (1) A licensee may accept sponsorship for news bulletins, weather, financial, traffic reports or any other programme provided that the licensee retains ultimate editorial control of the sponsored programmes.
- (2) A licensee shall ensure that sponsorship of information programmes does not compromise the impartiality and accuracy of the content of the programme.
- (3) A licensee shall ensure that the sponsors do not advertise or endorse their goods and services within the editorial content of the sponsored programme.
- (4) Sponsor funding and contribution to programmes shall be clearly acknowledged immediately before and after the programme and any link between the programme's subject matter and the sponsor's commercial activities must be made clear.
- (5) A licensee shall broadcast any programme which has been sponsored.
- (6) A licensee shall not unreasonably discriminate against or in favour of any particular sponsor.

PART V
COMPLAINTS AND INVESTIGATIONS

Rights of complainants

18. In dealing with all complaints, a licensee shall ensure that complainants are advised that they have the right to refer the complaint to the Authority if they are dissatisfied with the licensee's response to the complaint.

Request for copy of the programme

19. Any person who has reason to believe that he or she has been unfairly treated in any programme may request from a licensee a copy of the relevant programme and such request shall not be unreasonably turned down by the licensee.

Licensee to abide and co-operate

20. A licensee shall abide by and co-operate with all such complaints, monitoring and investigation procedures as are initiated by the Authority from time to time by, inter alia -

- (a) submitting, on request, any recordings or documentation required by the Authority;
- (b) responding to queries from the Authority relating to allegations of non-compliance with licence Conditions, Rules, Regulations or the Act;
- (c) submitting, where requested, written reports or written responses to allegations of non-compliance with licence Conditions, Regulations or the Act; and
- (d) appearing, when requested, before the Authority during any adjudication of a complaint or investigation inquiry into alleged non-compliance with licence conditions, Rules, Regulations or the Act.

Rights of licensee

21. Whenever the Authority intends to hold any investigation into a suspected breach of the licence conditions or investigate any complaint relating to a

licensee's failure or refusal to deal with any complaint or the unsatisfactory handling of any complaint by a member of the public, the Authority shall invite the licensee to make a written or oral representations within such period specified by the Authority.

Penalty

22. In the event of a finding that a licensee has failed to comply with or has breached a licence condition, the Authority may impose such fine or penalty and make such directive as it deems necessary.

PART VI AMENDMENT OF LICENCE CONDITIONS

Amendments by the Authority

23. The Authority may amend or vary licence conditions:

- (a) if the amendment will not cause substantial prejudice to the licensee; and
- (b) to such extent as may be necessary by virtue of any bilateral, multilateral or international agreement or convention relating to broadcasting by which Lesotho is bound.
- (c) where the Authority seeks to vary or amend any licence condition, the Authority shall give a 60 days notice of its intention to the licensee.
- (d) such notice of the proposed amendment and the reason for such amendment or variation shall clearly and fully set out the reason for the proposed amendment or variation.
- (e) such notice shall invite the licensee to make written representations to the intended amendment or variation.
- (f) the licensee shall make such representations within 30 days.
- (g) the Authority shall take into consideration the representations of the licensee prior to making its decision on the proposed amendment.

Amendments at the request of a licensee

24. (1) A licensee may at any time apply to the Authority to amend its licence conditions.
- (2) The applicant shall furnish the Authority with all the relevant information and necessary documents, motivating the proposed amendment.
- (3) The Authority may, if it deems it necessary or expedient, invite other licensees to make representations on the proposed amendment and to indicate to the Authority whether the proposed amendment, if granted, will be prejudicial to their interests.
- (4) Where such other licensees make representations on the proposed amendment, such representations shall be delivered to the applicant on the same day as to the Authority.
- (5) The applicant licensee shall be given such period, as determined by the Authority, to respond to the representations.
- (6) A licensee shall furnish to the Authority, on demand, any information, record or document which will enable the Authority to make its decision on the proposed amendment.

**PART VII
MISCELLANEOUS****Compliance**

23. (1) A licensee shall comply with any directive given by the Authority in respect of any matter, which direction shall be in accordance with the Act, these Rules, or the licence conditions.
- (2) Without limiting the generality of sub-rule(1), the Authority may, where relevant, order a licensee to broadcast an apology, correction or retraction in such terms as the Authority may specify.
- (3) A licensee shall ensure that there are persons amongst those involved in providing licensed services who are adequately versed in the requirements of the Act, these Rules and the licence conditions and that such persons are able to ensure compliance with such requirements on daily basis.

(4) A licensee may be required by the Authority to provide free services in relation to issues of utmost importance to the industry and the nation as a whole.

(5) A licensee shall ensure full commitment to ethical and professional standards.

(6) A licensee shall ensure that the official languages are properly used in all the programmes.

Sanctions

26. (1) If the Authority is satisfied that the licensee has failed to comply with any requirement of the Act, these Rules or the licence conditions, the Authority may impose a fine or direct the licensee to broadcast a correction or an apology or both.

(2) The amount of any financial penalty imposed pursuant to sub-rule(1), shall be determined by the Authority.

Repeal

27. The Lesotho Telecommunications Authority (Broadcasting) Rules 2002 are repealed

**CHIEF EXECUTIVE
LESOTHO TELECOMMUNICATIONS AUTHORITY**

NOTE

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1. Act No. 5 of 2000
 2. L. N. No. 194 of 2002