**Brief Commentary on the Changes made on the New Mass Media Proclamation of Ethiopia**

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The new Mass Media Proclamation 1238/2021 has introduced significant changes to the previous legal regime governing the media. The law has introduced commendable legal provisions that provide greater protection and space for media freedom as well as more flexibility with regard to investments in the media industry. In this brief commentary, we will provide the major changes made in the new Mass Media proclamation briefly.

**1.** **Consolidating the Media Regulation**

The Mass Media Proclamation integrated two different areas of media regulation that were governed by two different legislations. Previously, access to information and the print media was regulated under Proclamation 590//2008, while the broadcast media was regulated under Proclamation 533/2007. The new Mass Media Proclamation repealed both proclamation 590/2008 and proclamation 533/2007, but in essence consolidated the regulation of the print and broadcast media in one single legislation.

**2. Decriminalization of defamation**

The most significant aspect of the new Mass Media Proclamation is the decriminalization of defamation. The new Mass Media Proclamation in Art 84 provides that defamation shall only entail civil liability and shall not entail criminal responsibility. This will have far reaching significance for the progress of media freedom in the country. The inclusion of this article was made because of the emerging consensus on the subject drawn from comparative experience of other countries and also considering the significant limitations that broad criminal law restrictions could have on political speech. Art 84 also includes various forms of protections including defence of truth, statements made in good faith, statements made for public interest, and privileged speech such as those made during parliamentary debates.

**3 . Easing Media Ownership Rules**

The hitherto applicable broadcast law excludes all foreigners from owning media houses in Ethiopia.[[1]](#footnote-1) However, the new proclamation allows foreigners to own 25% of the share of a media company. Accordingly, the new media proclamation allows foreigners to have up to 25% of the ownership of media outlets in Ethiopia. The new proclamation treats both foreigners and foreign nationals with Ethiopian origin on the equal scale. Both can’t hold more than 25% of share as per At 23 (3) of the proclamation. Moreover, the new Mass Media Proclamation allows for more flexibility of cross ownership of the media industry that was very restricted in the previous laws. Under the new Mass Media Proclamation, the cross ownership effective control requirement is raised from 15% to 25%,;which means that investors now can have more flexibility to invest across different media platforms.

**4. Expanding the Regulation into Online and Electronic Media**

The new Mass Media Proclamation introduces and governs online media and other technological advancements in the regulatory arena. The previous two laws were silent with regard to online media platform However, the new media law exhaustively deals with this new phenomenon. Accordingly, Art. 2 (1), 2 (4), 22 (2), 23, 24 (1), and more specifically art. 27, 51(5), 53, 61 and 87 (3) of the proclamation deal about online media. Art. 2 (4) defines online media an internet-based information dissemination service by an organization whose principal business involves the collection, production, processing and dissemination of news or programs, through online images, audio, video and websites or through a combination of the aforementioned means, in accordance with the editorial responsibility of a media service provider. Furthermore, Art. 27 provides the requirements and procedures to register online media. The pervious law neither defined online media nor provided the detail legal framework to govern it.

**5. Regulating Foreign-Based Media that Focus on Ethiopia**

Unlike its predecessors, the new Mass Media law extends its scope of application towards international media which substantially focusing on Ethiopia. As per Art. 3(3) (a) of the proclamation, if more than 50% of its content focuses on Ethiopia, the Proclamation will be applicable as well. This means that the law will be applicable and the regulatory authority will have power in relation to media whose content is 50% or more focused on Ethiopia.

**6. Improving Regulatory Oversight and Self-Regulation**

The new proclamation sets a higher standard to achieve impartiality and independence. It shifted the accountability of the authority from the minister of information and communication to the House of Peoples’ Representative as per Art. 4/2 of the new media proclamation. In order to ascertain the impartiality of the Board members of the Media Authority, the law came up with more transparent way of appointment under Art. 9 of the proclamation. Moreover, Art. 9 (1) of Proc. 533/2002 left the issue determining the number of members of the Board to the Government. As oppose to this, however, the new Mass Media Proclamation has determined the number and accordingly stipulates that the Board shall have nine members only. Furthermore, under Art. 9 (5) and 14, of the Mass Media Proclamation specify the required selection criterion to become member of the board and terms of office the Board members. In addition:

**A.** The new law extend the period of limitation provided to lodge an appeal on the decision of the authority. According to Art. 22(3) of pro. 533/2007, any applicant who is denied a license may appeal to the Board within 14 days from the date of the decision. However under the new law, the period of limitation has been extended to 30 days pursuant Art 41(7).

**B**. The Board’s final appellate jurisdiction under the previous law has been repealed and the Board and then the federal high court will have a legitimate jurisdiction to entertain grievances in relation to licensing and any other administrative measure decisions.

Unlike the traditional operation of appellate courts, the higher court in such case have both a power to review the issue of fact and the issue of law cumulatively. The previous mass media and information law dealt only about the appellate jurisdiction of federal first instance court on incase refusal of information happened. Apart from that, the laws were silent with regard to the licensing and related grievances.

**C.** The new proclamation introduces the right to establish mechanisms of self-regulation under Arts. 5, , 6, 13 and 73. It has an objective to strengthen the organizational structure and operation of media self-regulation mechanisms in order to enhance voluntary peer review and learning process between media institutions as well as handling complaints.

1. See Art 23(2) Broadcast Service Proclamation 533/2007; See also Art 7(5) Freedom of the Media and Access to Information Proclamation 590/2008. [↑](#footnote-ref-1)