

**BILL No. 13 of 2011**

*Friday 15<sup>th</sup> July, 2011*

PARLIAMENT OFFICE  
Public Buildings,  
Georgetown,  
Guyana.

15<sup>th</sup> July, 2011.

The following Bill which will be introduced in the National Assembly is published for general information.

*S.E. Isaacs,*  
Clerk of the National Assembly.



**GUYANA**

**BILL No. 13 of 2011**

**BROADCASTING BILL 2011**

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**A BILL****Intituled**

**AN ACT** to make provision for the establishment of the Guyana National Broadcasting Authority responsible for the regulation, supervision and development of the National Broadcasting System, to provide for its functions, and to provide for the licensing of broadcasting agencies and the encouragement of production and broadcasting of television and radio programmes having relevance generally to life and culture of the people and for consequential and related matters:

**A.D. 2011**

Enacted by the Parliament of Guyana:-

**PART I****PRELIMINARY**

Short title  
and  
commencement.

1. This Act may be cited as the Broadcasting Act 2011 and shall come into operation on such date as the Minister may by order appoint.

Interpretation.

2. In this Act –

- (a) “appointed date” means the date on which this Act comes into operation;
- (b) “Authority” means the Guyana National Broadcasting Authority established by section 3;
- (c) “Board” means the Governing Board of the Authority constituted

under section 3;

- (d) “broadcasting” means the transmission of any programme whether or not encrypted and whether or not actually received, by wired or wireless medium or technology for reception by all or part of the general public, but does not include telecommunications;
- (e) “broadcasting agency” means a person engaged in providing a broadcasting service;
- (f) “broadcasting sector” means the same as broadcasting industry which consists of radio and television stations and networks that acquire the right to broadcast and create content or acquire prerecorded television and radio programmes;
- (g) “broadcasting service” means a service providing broadcasting;
- (h) “Chairperson ” means the chairperson of the Authority appointed under this Act;
- (i) “committee” means a committee of the Board, established under section 8(9);
- (j) “disqualified person” means a person disqualified from holding a licence under this Act;
- (k) “encrypted” means treated electronically or otherwise for the purposes of preventing intelligible reception
- (l) “licence” means a licence issued under section 24;

- (m) "licensee" means a person who holds a licence under this Act;
- (n) "member" means a member of the Board appointed under section 4 and, unless the context otherwise requires, includes the Chairman;
- (o) "Minister" means the minister responsible for broadcasting;
- (p) "prescribed" means prescribed by subsidiary legislation under this Act;
- (q) "programme" in relation to broadcasting, means any speech, music or other sound, any visual image, or any combination thereof, the primary purpose of which is to inform, educate, or entertain, or to offer any goods or other property or services, to all or part of the general public;
- (r) "Secretary" means the Secretary of the Authority, appointed under section 12(1);
- (s) "telecommunication" means the transmission, emission or reception or signals, writing, signs, text, pulses, images, sounds, or other intelligence of any kind, or any combination thereof, by way of any wired or wireless medium or technology, but does not include broadcasting;
- (t) "wireless" means the emitting or receiving, over paths which are not provided by any material substance

constructed or arranged for that purpose, of electromagnetic energy, being energy which either –

- (i) serves for the conveying of messages, sound or visual images (whether the messages, sound or visual images are actually received by any person or not), or for the actuation or control of machinery or apparatus; or
- (ii) is used in connection with the determination of position, bearing, or distance, or for the gaining of information as to the presence, absence, position or motion of any object or of objects of any class.

(2) The provisions of this Act to the extent that they amount to the terms and conditions of a licence are deemed to be incorporated in the licence in addition to those actually so stated therein.

(3) This Act shall be construed and applied in a manner that is consistent with the right to freedom of expression and journalistic ethics, the provision and production of quality and balanced information for the Guyanese public.

## PART II

## BROADCASTING AUTHORITY

Establishment  
of the  
Broadcasting  
Authority.

3.(1) There is established the Guyana National Broadcasting Authority, which shall be a body corporate and the provisions of this part, shall have effect as to the constitution of the Authority and otherwise in relation thereto.

(2) There is established the Governing Board of the Authority.

(3) The Authority shall be managed by the Board, which shall be responsible for the conduct of its business, activities and other affairs.

Constitution and  
appointment of  
members of  
Board of  
Authority.

4.(1) The Board shall comprise not less than four nor more than seven members, one of whom shall be the Chairman.

(2) The President shall appoint the Chairman and all members of the Board.

(3) One of the members of the Board shall be nominated by the Leader of the Opposition for appointment after he has had meaningful consultation with the parliamentary opposition parties.

(4) The Managing Director of the National Frequency Management Unit or its successor shall be an *ex-officio* member of the Board without the right to vote.



(5) The persons eligible for selection for appointment under the preceding subsections shall –

(a) have experience in at least one of the following areas –

- (i) information communication technology;
- (ii) broadcasting;
- (iii) law;
- (iv) performing arts;
- (v) literature;
- (vi) science;
- (vii) finance;
- (viii) accountancy;
- (ix) administration;
- (x) public service; and

(b) be of good standing, integrity and character.

Tenure of  
members.

5.(1) A member, other than the *ex-officio* member, shall hold office for three years and shall be eligible for re-appointment.

(2) The President, on the advice of the Minister, may terminate the appointment of any member, if the member –

- (a) becomes of unsound mind;
- (b) becomes bankrupt or compounds with his creditors;

- (c) is convicted of any felony or misdemeanor;
- (d) is guilty of misconduct which, in the opinion of the Board is related to the performance of his functions under this Act;
- (e) is absent, except on leave granted by the Board, from three consecutive meetings of the Board;
- (f) becomes incapable, willfully or otherwise, of carrying out his functions under this Act;
- (g) consistently shows partiality and fails to be objective;
- (h) holds or has an interest referred to in section 7(1).

(3) The appointment of a member shall not be terminated unless he has been given a reasonable opportunity to make representation.

(4) The names of the members of the Board as first constituted and every change in the membership thereof shall be notified in the *Gazette*.

(5) The members shall be paid such emoluments and allowances, as may be determined by the Minister.

Seal of Authority.

6.(1) The seal of the Authority shall be such device as the Board shall determine and shall, where the Board so directs, be kept in the custody of the Secretary.

(2) The affixing of the seal shall be authenticated by the signature of the Chairman and the Secretary or some other person authorised in this behalf by a resolution of the Board.

(3) A contract or instrument, which if entered into or executed by a person not being a body corporate would not be required to be under seal, may be entered into or executed without seal by the Secretary or any other person authorised by the Board in that behalf.

(4) A decision of the Board may be authenticated in the manner specified in subsection (2).

Disqualification  
from  
membership.

7.(1) A person shall not be appointed or shall cease to be a member where the person directly or indirectly –

- (a) holds or acquires an interest in any share, stock, debenture, contract or agreement in any broadcasting agency;
- (b) has acquired a pecuniary or other material interest in a device, appliance, machine, article, patent or patented process which is required or used by any broadcasting agency.

(2) Notwithstanding subsection (1), a member shall not be held to have a pecuniary or other material interest in a broadcasting agency by reason only of the fact that he is a consumer of a programme broadcast by the agency for general

reception.

(3) No person who has or holds an interest referred to in subsection (1) shall be appointed as a member and, if he is so appointed, the Minister shall, when the matter comes to his knowledge, recommend to the President the revocation of his appointment.

(4) Before an appointment is revoked under subsection (3) the member concerned shall be given a reasonable opportunity to make representations.

(5) Where a member acquires an interest referred to in subsection (1), he shall unless he resigns his membership of the Board, be deemed to be guilty of misconduct.

Proceedings of  
the Board.

8.(1) Subject to the provisions of this Act, the Board may regulate its own procedure and have regulations made for that purpose.

(2) The Board shall meet as often as necessary or expedient for the transaction of business.

(3) A meeting shall be held at such place and time and on such day as the Board may determine.

(4) The Chairperson may at any time call a meeting of the Board and shall call a special meeting to be held within ten days of receipt of a written request for that purpose addressed to him by any four members.

(5) One half of the members, other than the *ex-officio* member, shall form a quorum at any meeting of the Board.

(6) The Chairman shall preside over a meeting or, in his absence the members present may elect one of their members to act as chairman for that meeting.

(7) Decisions of the Board shall be by a majority of members present and voting at the meeting and, in the event of an equality of votes, the Chairman or the person presiding at the meeting shall have a casting vote in addition to his original vote.

(8) The Board may co-opt any person to attend any particular meeting of the Board at which it is proposed to deal with a particular matter, for the purpose of assisting or advising the Board, but no such co-opted persons shall have the right to vote.

(9) The Board may, for the purpose of performing its functions under this Act, establish committees and delegate to such committees such of its functions as it consider necessary or expedient; the Board may appoint, or arrange for the

appointment of, advisory committees to give advice to the Board on such matters relating to the Authority's functions as the Board may determine.

(10) The Board may appoint persons as members of a committee who are or are not members of the Board, or who are or are not employees of the Authority; and such persons shall hold office for such period as the Board may determine; but the chairman of each committee shall be a member of the Board.

(11) Subject to a specific or general directive of the Board, a committee shall regulate its own procedure.

(12) The Board shall cause to be kept minutes of the proceedings of its meetings and of meetings of any committee established by it.

Disclosure of  
interest.

9.(1) A member who has a direct or indirect pecuniary or other material interest in a matter that is brought up for consideration at a meeting of the Board shall disclose the nature of his interest at the meeting of the Board and where such disclosure is made –

- (a) the disclosure shall be recorded in the minutes of the meeting; and
- (b) the member shall, subject to subparagraph (2), not take any part in the deliberation or decision of the Board.

(2) Subsection (1)(b) shall not apply in relation to a meeting of the Board

where, having regard to the minute nature of the interest, the Board resolves that the interest should be disregarded for the purposes of that provision.

(3) For the purposes of subsection (1), a general notice given by a member at a meeting of the Board to the effect that he is a member of a specified company or firm and is to be regarded as interested in any matter involving that company or firm shall be regarded as sufficient disclosure of his interest in relation thereto.

(4) A member need not attend in person at a meeting in order to make a disclosure which he is required to make under this section if he takes reasonable steps to ensure that the disclosure which he is required to make under this section is made by giving a written notice to the Board so that the notice may be taken into consideration and read at the meeting.

Confidentiality.

10.(1) No member, officer or employee of the Board shall, without the express written consent given by or on behalf of the Authority, publish or disclose to any person, otherwise than in the course of his duties, the contents of any document, communication or information which relates to and which has come to his knowledge in the course of his duties under this Act.

(2) Any person who, being actually or constructively aware that the information referred to in subsection (1) was published or disclosed without authority, knowingly receives that information, commits an offence and is liable,

on summary conviction to the penalty specified in section 44.

(3) If any person having information which in his actual or constructive knowledge has been published or disclosed in contravention of subsection (1) unlawfully publishes or communicates any such information to any other person he commits an offence and is liable, on summary conviction to the penalty specified in section 44.

Protection of members, etc.

11. No action or other proceeding shall lie against any member, member of a committee, the Secretary or other officer or employee, agent or representative of the Authority for or in respect of any act done or omitted to be done in good faith in the exercise or purported exercise of his functions under this Act.

Appointment of employees.

12.(1) The Board may appoint, on such terms and conditions, officers including a Chief Executive Officer and a Secretary as it considers necessary or expedient for the performance of its functions under this Act, subject to the approval of the Minister.

(2) The Board may retain the services of consultants on such terms and conditions as it may determine, subject to the approval of the Minister.

Funds and resources of the Authority.

13.(1) The Funds and resources of the Authority shall consist of –  
(a) sums, including licence fees, paid to the Authority;



- (b) sums provided to the Authority under an appropriation law;
- (c) fees for programmes, publications, seminars, consultancy and other services provided by the Authority;
- (d) property or investments acquired by or vested in the Authority;
- (e) monies earned or arising from any property or investment acquired by or vested in the Authority;
- (f) donations to the Authority;
- (g) all other sums or property which may otherwise vest in or accrue to the Authority in respect of any matter incidental to its functions.

Utilisation  
of funds.

14.(1) The Authority shall utilise its funds and resources –

- (a) for meeting its administrative expenses;
- (b) for encouraging and promoting production for general reception, including the making of grants to producers for the production of educational programmes or information on a competitive basis both in the private, regional, community and public sector.

(2)(a) The Board wherever necessary shall so conduct its affairs as to generate revenues sufficient to enable the Authority to meet its obligations and to discharge its functions under this Act.

(b) Any excess of the Authority's revenues for any financial year over the

sums required by it for that year for meeting its obligations and discharging its functions under this Act shall be applied by the Authority after consultation with and the approval of the Minister.

Financial year.

15.(1) The financial year of the Authority shall be the period of twelve months ending on 31<sup>st</sup> December in each year.

(2) The accounts of the Authority shall be audited annually by the Auditor General.

Annual report.

16.(1) As soon as possible after the expiry of the financial year, but no later than June 30<sup>th</sup> of the following year the Board shall submit to the Minister a report concerning its activities during the financial year.

(2) The report referred to in subsection (1) shall include information on the financial affairs of the Authority and there shall be appended to the report –

- (a) an audited balance sheet;
- (b) an audited statement of income and expenditure;
- (c) such other information as the Minister may require;
- (d) information regarding the work of the Authority including applications, licences granted, non-renewals and denials;
- (e) information regarding disciplinary action it may have taken in regards to removals or suspensions of licences.

(3) The Minister shall lay the Report before the National Assembly.

Responsibility of  
the Authority.

17.(1) The Authority shall be responsible for the regulation, supervision and development of national broadcasting, including private, public and community broadcasting in consonance with the broadcasting policy set out in section 19.

(2) The Authority shall in its deliberations to grant licences be guided by considerations of national sovereignty, public safety and order.

Functions of  
Authority.

18.(1) The Authority shall –

- (a) establish classes of licences;
- (b) issue licences for such terms not exceeding ten years and subject to such conditions related to the circumstances of the licensee as the Authority deem appropriate for the implementation of broadcasting policy set out in section 19;
- (c) amend any condition of a licence on application of the licensee or on the Authority's own motion;
- (d) issue renewals of licences for such terms not exceeding ten years and subject to such conditions as comply with paragraph (b);
- (e) suspend or revoke any licence provided the licensee is given a reasonable opportunity of making representations unless this is impracticable.

(2) The Authority shall –

- (a) recommend to the Minister policies, guidelines and regulations governing broadcasting;
- (b) issue rules, guidelines and standards within its jurisdiction under this Act and encourage broadcasting of the highest possible standard;
- (c) recommend the terms and conditions for licences for radio, television or any other new broadcast technologies;
- (d) establish a system for monitoring the programmes of licensees to ensure their adherence to this Act and the regulations made thereunder;
- (e) prescribe and collect fees relating to licenses issued;
- (f) investigate complaints as well as initiate investigations into alleged broadcasting violations;
- (g) establish mechanisms to resolve conflict through arbitration, conciliation, mediation and other forms of dispute resolution;
- (h) recommend to the Minister, legislation or changes to existing broadcast legislation in the light of new developments in technologies, public policy and international practices;
- (i) require licensees to carry information on any programmes issued by the Civil Defence Commission, the Guyana Police Force, Guyana Fire Service and or health services, and certain

other programmes as public information deemed appropriate and necessary in terms of national security, emergency and disaster as a public service at no cost;

- (j) conduct research, opinion polls, and surveys to assist it in carrying out its mandate in a more informed manner;
- (k) require licensees to carry a certain percentage of public service broadcast or development support broadcast as public information deems appropriate as a public service at no cost.

19. It is hereby declared as the broadcasting policy for Guyana that –

(a) broadcasting services are effectively owned and controlled by –

(i) Guyanese nationals;

(ii) Guyanese nationals and CARICOM nationals:

Provided that in the case of CARICOM nationals their ownership and control shall be subject to there being reciprocal provisions governing broadcasting by the Member State of which the CARICOM national is a citizen;

- (b) that no one person can own and or control more than 25 per cent of the broadcasting sector;
- (c) while recognising the special role of state-owned media, the broadcast industry is plural and open to fair competition;
- (d) contributes to the strengthening of a shared Guyanese

Broadcasting  
policy.

- consciousness and identity, fostering national unity and building a harmonious society;
- (e) ensures wide geographic availability and accessibility of broadcasting services, especially to hinterland and border communities;
  - (f) safeguards, enriches and strengthens the diverse ethnic, cultural, social and economic fabric of Guyanese society;
  - (g) promotes the growth of Guyanese expression through diversified programming that reflects Guyanese rich cultural diversity, traditions, history, attitudes, opinions, ideas, beliefs and values, and provides a reasonable opportunity for the public to be exposed to the expression of differing views on matters of public concern;
  - (h) serves the needs and interests, and reflects the circumstances and aspirations of Guyanese, including those of equal rights and the multi-cultural and multi-racial nature of the Guyanese society;
  - (i) caters for a broad range of services, specifically for the programming needs of Amerindians, children, women, youth, the disabled, the underprivileged and rural residents;
  - (j) be varied and comprehensive, providing a balance of information, enlightenment and entertainment for men, women and children of all ages, and tastes;
  - (k) encourages the development of local programme content and the

use of local talent, skills and resources;

- (l) reflects the diverse social, cultural, political and economic nature of the Guyanese society by providing varied programming, a balance of information, education and entertainment for men, women and children of all ages, races, cultures, religions, interests and tastes;
- (m) promotes and reflects shared national values, customs, aspirations and culture and actively contributes to the flow and exchange of cultural expression;
- (n) provides important news and public affairs programming which meets the highest standards of journalism, including fair and unbiased coverage, impartiality and balance;
- (o) includes significant amounts of educational programming, both curriculum-based and informal, on a wide range of social, political and economic topics, such as health, culture, Amerindian issues, gender issues, youth development, business, agriculture, science and technology, ecology and bio-diversity and environment, legal and constitutional topics; and
- (p) be responsive to audience needs in terms of coverage of national and international events;
- (q) that broadcasting shall ensure compliance with the constitution and laws of Guyana and shall not incite violence, ethnic, religious or cultural hostility.

## PART III

## GENERAL PROVISIONS ABOUT LICENCES

Application for licence by person engaged in broadcasting immediately before commencement of the Act.

20.(1) Every person carrying on an authorised broadcasting service immediately before the appointed date shall, within thirty days from that date, make an application to the Authority for a licence for the continuation of the broadcasting service and send a copy of such application to the National Frequency Management Unit or its successor.

(2) Where a person referred to in subsection (1) fails to make an application for a licence under that subsection within the time specified therein, or where the application for a licence made by him is not granted by the Authority he shall forthwith cease to carry on the broadcasting service.

Applications for licences by other persons.

21.(1) No person shall, after the appointed date, carry on a broadcasting service unless he has been granted a licence for that purpose by the Authority.

(2) A person who desires to commence broadcasting service shall apply to the Authority for a licence for that purpose.

(3) The Authority shall send the application to the National Frequency Management Unit or its successor for the availability of the spectrum.



(4) On receipt of the advice of the National Frequency Management Unit or its successor that there is spectrum availability and that the applicant fulfils the technical requirements, the Authority shall consider the application.

(5) The Authority may, where it is satisfied that there is good reason for doing so, allow an applicant for a licence to amend his application or to furnish additional particulars.

Form of application for licence and its fees.

22. An application for a licence under section for 21(2) shall be –

- (a) in such form and shall contain such particulars; and
- (b) shall be accompanied by such fees, as may be prescribed.

Eligibility for licences.

Cap. 89:01

23.(1) A licence shall be issued only to a company incorporated or continued under the Companies Act, or to a trust, either of which must fulfill the following conditions –

- (a) the only business carried on, or proposed to be carried on, by the company or trust shall be all or any of the following –

- (i) the establishment and operation of broadcasting service;

- (ii) the establishment and operation of such associated telecommunication services ancillary to the operation of the category of broadcasting service concerned as may be authorised under the Telecommunications Act

Cap. 47:01

or its successor;

(iii) the carrying on of such forms of business as may be directly connected or associated with those mentioned in subparagraphs (i) and (ii);

(b) in the case of all licensees whether a company or a trust –

(i) no person who is disqualified under this Act shall exercise control over the company except with the permission of the Authority;

(ii) not less than fifty-one per cent of the voting shares of the company, or not less than fifty-one per cent of the trust are on the date of issue of the licence, owned and or controlled by Guyanese nationals; and

(iii) it cannot own and or control more than twenty five percent of the broadcasting sector:

Provided that for the purposes of determining the percent of the sector owned or controlled, the Authority shall develop a formula taking into account such factors as it deems appropriate, and issue rules and guidelines accordingly;

(iv) it agrees that –

(a) no licence is to be transferred nor sub-contracted through management contracts; and

(b) the sale of a company, change in directors, or transfer and sale of controlling shares under a licence must be brought to the attention of the Authority and its approval is required in regards to the sale, change in directors or transfer of controlling shares.

(2) The Authority shall, in its deliberations to grant broadcast licences, be guided by considerations of national security, public safety and order.

(3) A licence granted to any person shall stand cancelled on the date on which that person ceases to fulfill the conditions specified under subsection (1).

Issuance of  
licences.

24.(1) The Authority may, after considering the particulars furnished by the applicant and having regard to the provisions of this Act and the views of the National Frequency Management Unit or its successor under section 25, grant or refuse to grant the licence.

(2) Without prejudice to subsection (1), in granting or refusing to grant a licence, the Authority shall have regard to the following –

- (a) whether the applicant is eligible under this Act to hold a licence;
- (b) whether the applicant is a fit person to hold a licence;
- (c) the technical standards established, or proposed to be established,

by the applicant;

- (d) the programmes proposed to be broadcast by the applicant and what percentage thereof will be produced in Guyana, countries that are members of the Caribbean Community, countries in the region and beyond;
- (e) whether the area in which the applicant is seeking to provide a broadcasting service is sufficiently catered for by other existing broadcasting agencies;
- (f) whether the applicant has provided information to the Authority on its public hearing or briefing with the relevant communities or relevant geographic areas which would be serviced and their views.

(3) In addition to the requirements set out in subsection (1), the Authority shall have regard to any of the following --

- (a) whether the applicant has had a previous application rejected and the reasons for it;
- (b) whether the applicant has had a licence suspended or cancelled in the past and the reasons for it;
- (c) whether the applicant is already in possession of a licence.

(4) Where the Authority proposes to reject an application for a licence, it shall before rendering its decision afford the applicant a reasonable opportunity of making representations.

(5) The Authority shall publish in the *Gazette* the names and other relevant details of persons to whom licences have been issued.

(6) A licence shall be in writing in such form as may be determined by the Authority and shall, unless sooner suspended or cancelled, continue in force for such period as the Authority may specify therein.

(7) A licence shall be granted for the purpose of a broadcasting service specified in the licence.

(8) A licensee shall prominently and publicly display its licence on its property or station and at the beginning and end of each broadcasting programme.

Requirement of  
licence allocating  
a frequency.

25.(1) The holding of a licence under this Act by any person to provide a broadcasting service shall not relieve him of any requirement to hold a licence issued by the National Frequency Management Unit or its successor under any law governing frequency management.

(2) Without prejudice to any other provision of this Act, the Authority shall not grant a licence to an applicant unless the National Frequency Management Unit or its successor has no objection to the grant of that licence and has allocated a frequency for that purpose.

Variation of  
licences.

26. The Authority may, by a notice served on the licensee, vary a licence if –
- (a) based on non-compliance with broadcasting policy;
  - (b) based on suspension, pending investigation or on conclusion of investigation and its findings;
  - (c) in the case of a variation of the period for which the licence is to continue in force, the licensee has given his consent;
  - (d) in the case of any other variation, the licensee has been given a reasonable opportunity of making representation to the Authority about the variation; or
  - (e) in the case of any change in the ownership of the company or its controlling interests;
  - (f) there is a spectrum change or change in broadcasting legislation.

Transfer of  
licences.

27. A licence granted to a person shall not be transferred to any other person without the prior written consent of the Authority.

Cancellation of  
licences.

28.(1) Where circumstances arise or become known which, if the circumstances had existed or been known at the time the application for the licence was being considered, the licence would not have been issued, any member of the Authority may bring this to the attention of the Authority or any other person may complain in writing in that regard to the Authority.

(2) Where a complaint is filed under subsection (1) or where the Authority in regards to subsection (1) is satisfied that the complaint is justifiable the Authority shall issue a notice to the licensee specifying the grounds and the particulars relating thereto and the date, time and place of hearing of the matter.

(3) A notice under subsection (2) shall be served on the licensee by registered post or in such manner as the Minister may, after consultation with the Board, prescribe.

(4) Where, after the conclusion of an inquiry the Authority is satisfied that there has been a breach of any provision of this Act, it may make such orders, including an order for the cancellation of the licence, as the Authority thinks appropriate.

Suspension of  
licences.

29.(1) Subject to subsection (2), where the Authority has issued a notice to a licensee under section 28, or for any reason after the grant of a licence, in the event that the licensee has committed a fundamental breach of the licence, the Authority may suspend the licence pending the determination of the complaint.

(2) During the pendency of suspension contained in subsection (1), the licensee shall have the right to be heard on the substantive complaint.

Appeal to the  
Full Court.

30. A person aggrieved by a decision of the Authority made under section 28

or section 29 may appeal in the same manner as if it were an order of a magistrate except that the appeal shall be made to the Full Court of the High Court.

General  
conditions  
governing  
licences.

31.(1) A licence may include –

- (a) such conditions that appear to the Authority to be appropriate having regard to any duties which are or may be imposed on it, or on the licensee, by or under this Act;
- (b) conditions requiring the payment by the licensee to the Authority, whether on the grant of the licence or at such other time thereafter as may be specified in the licence, of a fee fixed under section 40;
- (c) conditions requiring the licensee to provide the Authority, in such manner and at such times as it may reasonably require, with such information as it may require for the purpose of exercising the functions assigned to it by or under this Act;
- (d) conditions providing for such incidental and supplemental matters as appear appropriate to the Authority.

(2) A licence may in particular include conditions requiring the licensee –

- (a) to comply with any direction given by the Authority as to such matters as are specified in the licence or are of a description so specified; or
- (b) not to do or to do (except to the extent that the Authority consent



to his doing or not doing them) such things as are specified in the licence or are of a description so specified.

(3) In addition to the fee payable under subsection (1)(b) there shall be paid the fee required under any law governing frequency management.

(4) Where the licensee –

- (a) is required by virtue of any condition imposed under this Act to provide the Authority with any information; and
- (b) in purported compliance with that condition provides them with information which is false in a material particular, he shall be taken to have failed to comply with that condition.

(5) The grant of a licence by the Authority does not constitute consent on the part of the Authority for the doing of any act that amounts to a breach of any law, contract or arrangement and every issue of a licence shall be deemed to incorporate this condition.

Guidelines for  
issue of licences.

32. In the granting of licences and in the setting of conditions, the Authority shall ensure that –

- (a) its decisions are guided by the intent of the national broadcasting policy;
- (b) all applicants for new or renewed licences present their proposals,

- business plans, technical specifications at a public hearing in a location of proposed operations or reach summoned by the Authority;
- (c) all licences operate free from technical interference once they are not in violation of the policy, regulations and technical requirements;
  - (d) all stations, programmes, producers and presenters be required to be clearly identified on the airwaves for the convenience of viewers and listeners;
  - (e) all agency record programmes and recordings be kept for a period of five years after broadcast;
  - (f) there shall be rules to govern the timing, duration, frequency and content of advertising and publication of advertising tariffs;
  - (g) licensees shall keep proper broadcast logs and store recordings available for inspection and publish programme schedules in advance;
  - (h) all equipment for transmission, dissemination or distribution of programmes by wired, wireless, cable or any other means should meet a technical standard which ensures that listeners and viewers within the prescribed coverage area are able to receive signals with reasonable ease, minimum difficulty and maximum clarity;
  - (i) all programmes should be fair and balanced in content and show a respect for truth in ways that do not under-represent any significant strand of thought, and that accuracy is founded on a commitment to check, cross-check and double check and, wherever possible, to

gather first-hand information from credible documentation, or official spokespersons of fully attributable eye-witnessed sources;

- (j) programmes dealing with controversial public policy or matters of political or industrial controversy must meet standards of fairness and balance, accuracy, maintaining a proper balance and respect for truth and integrity and always ensuring that opposing views are not misrepresented;
- (k) the reporting of news should be objective, wide-ranging and well informed; in reporting matters of international, political, industrial or other controversy, the main differing views should be given due weight in the period during which the controversy is active;
- (l) news judgments should always take account of events as well as arguments, and editorial discretion must determine whether or not it is appropriate for a range of views to be included within a single programme or item;
- (m) the privacy of the individual and the private lives of individuals shall be respected in all cases, recognizing that intrusions shall be justified on the basis of serving a greater good and that private behaviour should not be brought into the public domain unless there is a wider public interest; this also includes children of public officials;
- (n) all public comment, whether by way of interview, discussion, debate or phone-in conversation should be well-mannered and courteous; interviewees must always be given a fair chance to fully respond to

questions and interviews should not be aggressive, hectoring or rude;

- (o) contributors to live, phone-in and other programmes, as well as presenters themselves, must be briefed to minimise the risk of causing offence in matters of taste, decency, language or breaking the law; devices with a delay mechanism shall be utilised in programmes that are particularly vulnerable to abuse; and
- (p) at election time licensees by agreement with political parties and in consultation with the Guyana Elections Commission afford such parties air time on their stations.

Restrictions  
on holding  
of licences.

33.(1) The Authority shall do all that they can to ensure –

- (a) that a person does not become or remain a licensee if he becomes disqualified under this Act; and
- (b) that any requirement imposed under this Act in relation to licensees is complied with by such licensees.

(2) The Authority may in pursuance of their duty under subsection (1) –

- (a) require any applicant for a licence to provide them with such information as they may reasonably require for the purpose of determining –
  - (i) whether he is a disqualified person as is mentioned in subsection (1)(a);
  - (ii) whether any such requirement as is mentioned in

subsection (1)(b) would preclude the Authority from granting a licence to the applicant;

(iii) if so, what steps would be required to be taken by or in relation to the applicant in order for any such requirements to be complied with;

(b) withdraw any approval of an application by a person where a relevant change takes place before the actual grant of the licence;

(c) make the grant of a licence to any person conditional on the taking of specified steps that appear to them to be required to be taken as mentioned in paragraph (a)(iii);

(d) impose conditions in a licence requiring the licensee, if a body corporate or trust, to give to it advance notice of proposals affecting –

(i) its shareholdings; or

(ii) its directors;

(e) impose conditions in a licence giving the licensee directions requiring him to take, or arrange for the taking of, any specified steps appearing to it to be requisite for compliance with subsection (1)(b) and (d).

(3) Where the Authority –

(a) withdraws or revokes any approval in pursuance of subsection

(2)(b) and (d); or

(b) determines that any condition imposed by it in relation to any licence in pursuance of subsection (2)(c) has not been satisfied, any provisions of this Act relating to the granting of licences shall, subject to subsection (4), have effect as if the person to whom the approval or licence was granted had not made an application for it.

(4) The provisions mentioned in subsection (3) shall not have effect if the Authority decides, that it would be desirable to publish a fresh notice under this Act for the grant of a licence, or that a further licence, to provide the service in question is needed.

#### PART IV

#### GENERAL PROVISIONS ABOUT LICENSED SERVICES

General  
requirements of  
licensed services.

34.(1) The Authority shall do all it can to ensure compliance with the Constitution and laws of Guyana and the following requirements by every licensed service –

- (a) that nothing is included in its programmes which offends against good taste or decency or is likely to encourage or incite to crime or to lead to violence or threat to public order or to be offensive to public feeling;

- (b) that any news given (in whatever form) in its programmes is presented with due regard to fair and balanced commentaries and accuracy and impartiality;
- (c) that due balance and fairness is preserved on the part of the licensee providing the service on matters of national political or industrial controversy or relating to current public policy;
- (d) that due responsibility is exercised with respect to the content of any of its programmes which are religious programmes, and that in particular any such programmes are in keeping with the Constitution and do not involve –
  - (i) any improper exploitation of any susceptibilities of those watching the programmes; or
  - (ii) any abusive treatment of the religious views and beliefs of those belonging to a particular religion or religious denomination;
  - (iii) disrespecting or ridiculing religious or cultural beliefs;
- (e) that its programmes and advertisements do not include any technical device which, by using images of very brief duration or by any other means, exploits the possibility of conveying a message to, or otherwise influencing the minds of, persons watching the programme or advertisement without their being aware, or fully aware, of what has occurred;

(2) In applying subsection (1)(c), a series of programmes may be considered as a whole.

(3) The Authority shall –

- (a) after consultation with the Minister draw up, and from time to time review rules giving guidance in connection with the application of subsection (1)(c) in relation to licensed services; and
- (b) do all that it can to ensure that the rules are observed in the provision of licensed services.

(4) In the rules referred to in subsection (3), the Authority may make different provision therein for different cases or circumstances including community or regional specific services.

(5) The rules referred to in subsection (3), shall in particular, take account of the following matters –

- (a) that fairness and balance should be observed on the part of the licensee as respects major matters falling within subsection (1)(c) as well as matters falling within this section taken as a whole; and
- (b) what constitutes a series of programmes for the purposes of subsection (2).



(6) The rules referred to in subsection (5) shall, in addition, indicate to such extent as the Authority considers appropriate –

- (a) what fairness and balance does or does not require, either generally or in relation to particular circumstances;
- (b) the ways in which fairness and balance may be achieved in connection with programmes of particular descriptions;
- (c) the period within which a programme should be included in a licensed service if its inclusion is intended to ensure that fairness and balance is achieved for the purposes of subsection (1)(c) in connection with that programme and any programme previously included in that service taken together; and
- (d) in relation to any inclusion in a licensed service of a series of programmes which is of a description specified in the rules –
  - (i) that the dates and times of the other programmes comprised in the series should be announced at the time when the first programme so comprised is included in that service; or
  - (ii) if that is not practicable, that advance notice should be given, by other means, of subsequent programmes so comprised which include material intended to ensure, or assist in ensuring, that due impartiality is achieved in connection with the series as a whole.

(7) The Authority shall publish the rules drawn up under subsection (3), including every revision of them in the public media and in such other manner as they consider appropriate.

(8) Nothing in this section shall have effect in relation to any licensed service which is an additional service.

Rules for  
programmes.

35.(1) The Authority shall, after consultation with the Minister, draw up and from time to time review –

- (a) the rules to be observed with respect to the suitability and timing of violent, pornographic material and explicit language broadcast when children and adolescents are expected to be using these services;
- (b) the rules to be observed with respect to graphic violent images on news programmes at times whilst children may be expected to be using these services and to ensure that warnings are posted to advise viewers of graphic and violent content;
- (c) rules with respect to content that would violate the constitution and statutes pertaining to defamation and libel, sexual violence, children's rights and protection, women's rights, racial hostility, public order and safety as well as ethnically and culturally sensitive material that would cause offence;
- (d) the rules to be observed with respect to programmes which solicit

donations; and

- (e) other matters concerning standards and practice for such programmes as the Authority may consider suitable for inclusion in the rules.

(2) The responsibility of the Authority is to ensure that the rules referred to in subsection (1) are observed in the provision of licensed services.

(3) The Authority shall, in drawing up or revising the rules under this section, take account of such of the international obligations of Guyana as the Minister may notify to it for the purposes of this subsection.

(4) The Authority shall in drawing up or revising the rules under this section take into account any new legislation that affects this sector.

(5) The Authority shall publish the rules drawn up under this section and every revision of them in the *Gazette* and in the local media and the official government website.

Rules for  
advertisements.

36.(1) It is the duty of the Authority –

- (a) after consultation with the Minister to draw up, and from time to time in like manner review, rules –

- (i) governing standards of content and delivery in

advertising and the sponsoring of programmes; and

- (ii) prescribing the advertisements and methods of advertising or sponsorship to be prohibited in particular circumstances; and

- (b) to do all that they can to secure that rules are observed in the provision of licensed services.

(2) The Authority shall publish the rules drawn up under this section, including every revision of them, in the *Gazette* and in the local media and the government website.

(3) The Authority shall from time to time consult the Minister as to the classes and descriptions of advertisements which shall not be included in licensed services and the methods of advertising or sponsorship which shall not be employed in, or in connection with, the provision of such services.

(4) The Authority shall, in drawing up or revising the rules, take account of such of the regional and international obligations of Guyana as the Minister may notify to them in writing for the purposes of this subsection.

Ministerial role  
in licensed  
services.

37.(1) The Minister responsible for broadcasting, where it appears to be necessary or expedient, may at any time by notice to the Authority direct licensees specified in the notice to broadcast such announcements as are so specified, and the

Authority and the licensees shall comply with the notice.

(2) Where the licensee broadcasts any announcement in pursuance of a direction under subsection (1), it shall include the source of the direction and that it is being done free of cost as a public service.

(3) The Minister may at any time where it appears necessary or expedient by notice require the Authority to direct the licensees specified in the notice to refrain from including in the programmes any matter or classes of matters specified in the notice; and the Authority shall comply with the notice.

(4) The powers conferred by this section are in addition to any power specially conferred on the Minister by any other provision of this Act.

General  
supervisory  
power of  
Authority.

38.(1) For the purpose of maintaining supervision over the programmes included in licensed services, the Authority may make and use recordings of those programmes or any part of them.

(2) A licence shall include conditions requiring the licensee –

- (a) to retain, for a period not exceeding five years, a recording of every programme included in the licensed service;
- (b) to produce, at the request of the Authority, any such recording for examination or reproduction;

- (c) to produce at the request of the Authority, any script or transcript of a programme included in the licensed service which the licensee has produced.

(3) Nothing in this Act shall be construed as requiring the Authority, in the discharge of its duties under this Act as respects licensed services and the programmes included in them, to view such programmes in advance of their being included in such services.

Audience  
research.

39.(1) The Authority shall make arrangements –

(a) for ascertaining –

(i) public opinion concerning the quality, content and standards of programmes offered by licensed broadcast services;

(ii) effects of such programmes on the attitudes, opinions or behaviour of viewers; and

(iii) new programmes that the public may be interested in accessing; and

(b) for the purpose of assisting the Authority to perform its functions under this Act.

(2) The arrangements referred to in subsection (1) shall –

(a) include provisions for full consideration by the Authority of

the results of any such research; and

- (b) include publication of the results of any research, once approved by the Authority, within ninety days on an official government website.

## PART V

### FEES AND RECOVERY OF FEES

Fees. 40.(1) Where the Authority decides to grant a licence to an applicant, it shall so inform the applicant in writing advising the applicant to pay to the Authority the sums specified in subsections (2) and (3) in accordance with those subsections.

(2) The applicant shall pay to the Authority such fees as may be prescribed by the Authority in two equal instalments payable on or before 30<sup>th</sup> June, 2012 and on or before 31<sup>st</sup> December, 2012.

(3) On 1<sup>st</sup> January of the first year of the commencement of this Act and annually after that date on the first day of the year the applicant shall pay to the Authority a further fee which shall be a sum equivalent to such percentage of the gross revenue of the licensee as the Minister may by regulations prescribe.

(4) Except in a case of suspension or cancellation where the licence subsists for only part of a year, the Authority may grant a proportionate rebate or a refund

of any licence fee paid under this section.

Collection of fees  
on behalf of  
Authority.

41. The Authority shall collect its own fees and penalties.

Recovery of  
sums payable to  
Authority.

42. Any sums owing to the Authority under this Act may be recovered by the Authority in a magistrates' court.

## PART VI

### OFFENCES AND PENALTIES

Penalty for  
broadcasting  
without a licence.

43. Any person who –

- (a) being a person referred to in section 20(1), continues to carry on broadcasting service after the expiry of thirty days from the appointed date, without applying for a licence or where he has applied for a licence within the aforesaid period of thirty days but his application for a licence has been rejected;
- (b) not being a person referred to in subsection (1), carries on a broadcasting service without a licence being granted to him; or
- (c) carries on a broadcasting service at the licensed location after the licence granted to him has been suspended, cancelled or expired,

commits an offence and is liable on summary conviction to a fine of one million dollars and imprisonment for one year and all machinery and equipment used, or which can be used, for broadcasting and owned by or in the possession of, the



person concerned is liable to be forfeited; but property not owned by such person shall not be forfeited unless the court is satisfied that the owner of the property knew or ought to have, with reasonable diligence, known that the person convicted had no licence to carry on broadcasting service.

Penalty for other offences.

44. Any person who contravenes any provision of this Act or any subsidiary legislation commits an offence and is liable on summary conviction, where no penalty is prescribed, to a fine of two hundred thousand dollars and imprisonment for six months.

## PART VII

### MISCELLANEOUS

Broadcasting of corrections and apologies, etc.

45.(1) Where the Authority is satisfied –

- (a) that the licensee has failed to comply with a condition of the licence; and
- (b) that the failure can be appropriately remedied by the inclusion in the licensed service of a correction or apology, or both, under this subsection, it may, subject to subsection (2), direct the licensee to include in the licensed service a correction or apology, or both, in such form, and at such time or times, as they may determine.

(2) The Authority shall not give any licensee a direction under subsection (1) unless a reasonable opportunity of making representation on the matter has been given.

(3) Where the licensee includes a correction or apology in the licensed service in pursuance of a direction under subsection (1), the licensee shall announce that this is done in pursuance of such a direction.

(4) If the Authority is satisfied that the inclusion by a licensee of any programme in the licensed service involved a failure by him to comply with any condition of the licence, it may direct him not to include that programme in that service or on any future occasion.

Financial penalty  
or shortening of  
licence periods.

46.(1) Where the Authority is satisfied that the licensee has failed to comply with any condition of the licence or with any direction given by the Authority under or by virtue of any provision of this Act, it may, subject to the provisions of this section, serve on the licensee –

- (a) a notice requiring payment, within a specified period, a specified pecuniary penalty of not more than one hundred thousand dollars to the Authority and where there is failure to comply after payment the licensee shall be liable to pay a sum of ten thousand dollars for each day that the breach continues; or
- (b) a notice reducing the period for which the licence shall be in force.

(2) The Authority shall not serve on any licensee the notice referred to in subsection (1)(a) or (b) unless a reasonable opportunity of making representations to the Authority has been provided.

(3) Where a licence is due to expire on a particular date by virtue of a notice served on any person under subsection (1)(b), the Authority may, on the application of that person, revoke that notice by a further notice served on him at any time before that date, if it is satisfied that, since the date of the earlier notice, his conduct in relation to the operation of the licensed service has been such as to justify the revocation of that notice.

(4) It is hereby declared that an exercise by the Authority of its powers under subsection (1) for any failure to comply with a condition of a licence does not preclude the exercise by it of its powers under section 33 for the failure.

Production of  
documents and  
inspection.

47.(1) The Authority may by notice served on a licensee or applicant for a licence, require the production for inspection of any document that is needed by it for the performance of any of its functions under this Act and, in the case of a licensee, he shall comply with the request.

(2) The Authority may inspect the premises from which a licensee provides a broadcasting service or from which an applicant for a licence proposes to provide a

broadcasting service.

Subsidiary  
legislation.

48.(1) Subject to the other provisions of this Act, the Minister may, after consultation with the Board or the body responsible for frequency management, or both, as appropriate, make subsidiary legislation for the better carrying out of the provisions of this Act.

(2) Without prejudice to the generality of subsection (1), the Minister may make regulations in respect of all or any of the following matters –

- (a) the form of application for a licence and the fees to be paid for it;
- (b) the form of a licence and the fees to be paid for the grant of a licence;
- (c) the conditions subject to which a licence may be granted;
- (d) the manner of service of any notice required to be served under this Act;
- (e) any other matter that is required to be or may be prescribed.

(3) Subsections 2(a) and (b) apply without prejudice to any fee that may be prescribed under any law governing frequency management for the receipt and processing, by the body concerned, of an application submitted to the Authority under section 6 or that may be prescribed for payment to that body of a fee upon the grant of a licence;

(4) Subsidiary legislation made under this section shall be subject to negative resolution of the National Assembly.

## EXPLANATORY MEMORANDUM

The Bill makes provision for the establishment of the Guyana National Broadcasting Authority responsible for the regulation, supervision and development of the National Broadcasting System, to provide for its functions, and to provide for the licensing of broadcasting agencies and the encouragement of production and broadcasting of television and radio programmes having relevance generally to life and culture of the Guyanese people.

The Bill is another instance of enhancing transparency in Government and the promotion of freedom of expression. It shall be construed and applied in a manner consistent with the right of freedom of expression and journalistic ethics, the provision and production of quality and balanced information for the Guyanese people.

Part II of the Bill proposes to establish a body to be known as the Guyana National Broadcasting Authority, which will regulate the content and quality of broadcasts. This Authority shall be charged with overseeing all aspects of broadcasting, by wireless or by wire, cable, satellite or other means. It will control, within limits imposed on it, all aspects of radio and television. This Part provides for the constitution and appointment of members of the Board. A person is disqualified from membership if he holds any share or stock in any broadcasting agency. The Board may regulate its own procedure. One half of the members, other than the *ex-officio* member shall form a quorum.

Clauses 13 and 14 deal with funds and the utilisation of the funds by the Authority. The Authority shall regulate, supervise and develop national broadcasting including private, public and community broadcasting in consonance with the national broadcasting policy.

Part III provides that it will be unlawful to broadcast without a licence, for which there will be penal sanctions under clauses 43 and 44 of the Bill. Once the Act comes into force, all authorized broadcasters operating at that time will have to submit applications for licences within thirty days of that date and a person who desires to commence broadcasting service shall apply to the Authority for a licence.

Under clause 21 an applicant has to submit his application for a broadcasting licence to the Authority and the Authority will submit it to the NFMU or its successor in regards to spectrum availability and technical requirements. The Authority may, after considering the particulars furnished and the views of the NFMU grant or refuse to grant the licence.

Clause 23 provides that only companies registered under the Companies Act and trusts will be allowed to hold broadcasting licences. A licence will only be issued to those companies or trusts which will be carrying on broadcasting, telecommunication or business ancillary to the operation of a broadcasting service.

In all broadcasting companies or trusts, the majority of the directors or trustees will have to be Guyanese. In the case of a company, not less than fifty-one percent of voting shares of the company must be beneficially owned by citizens of Guyana. In the case of a trust, not less than fifty-one percent of the trust is owned by Guyanese. A licensee cannot hold more than 25 percent control of the broadcasting sector.

Under clauses 26, 27, 28 and 29 respectively, a licence can be varied, transferred, cancelled or suspended by the Authority. An opportunity for a hearing is given to the licensee wherever there is

refusal, cancellation, suspension or revocation of a licence. Any licensee whose licence has been cancelled, suspended or revoked will have a right of appeal to the Full Court of the High Court. Licensees cannot transfer or sub-contract out their licences through management contracts.

Part IV proposes that there be rules to regulate licensed services. Clause 34 proposes that there be rules aimed at ensuring that fairness and balance is observed on the part of the licensee as respects matters of political or industrial controversy or relating to current public policy. The rules shall be drawn up by the Authority after consultation with the Minister. Under clause 35, the Authority, after similar consultation with the Minister shall make rules to be observed with respect to the showing of violence or illicit activities particularly when children would be expected to be utilising the services.

The rules shall relate to appeals for donations and standards in relation to such programmes as the Authority may include in the rules. Similar rules will be drawn up under clause 36 governing standards in advertising, regulating advertisements and prescribing advertisements or sponsorships that are prohibited in particular circumstances.

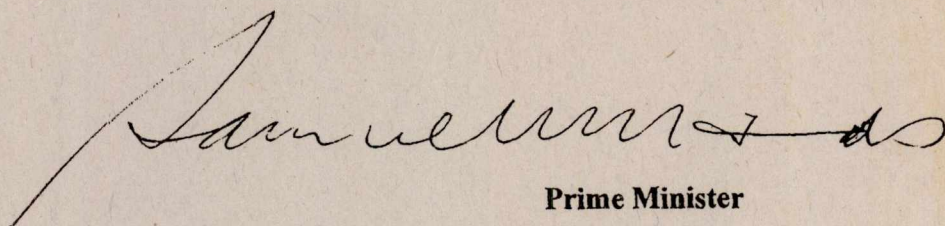
The Bill will introduce a new regime for regulating and facilitating enterprise in the broadcasting sector while at the same time ensuring that all radio and television stations continue to play their traditional role of educating, informing as well as entertaining the community.

Part V deals with the payment of fees by a licensee, the collection of the fees and recovery of sums payable to the Authority.

Part VI deals with offences and penalties.



Part VII deals with miscellaneous matters. Where a licensee has failed to comply with a condition of the licence and the failure can be remedied by an apology the Authority may, on giving the licensee an opportunity of making representation to it, direct the licensee to include in the licensed service an apology. Where the licensee has failed to comply with a condition of the licence, it may serve on the licensee a notice to pay a specified pecuniary penalty or a notice reducing the period for which the licence shall be in force. The Minister may make subsidiary legislation for carrying out the provisions of this Act.



Samuel M. Jones

**Prime Minister**