



The National Broadcasting Policy of the Royal Government of Bhutan

Submitted by

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1. Policy Name and Scope

The name of this Policy is the National Broadcasting Policy of the Royal Government of Bhutan.

This Policy covers the regulation of broadcasting in Bhutan, which includes types of content providers – including public service, commercial and community broadcasters – as well as distribution services, including distribution terrestrially (analogue and digital) and by cable and direct-to-home (DTH) satellite (satellite) technologies. This Policy does not, in general, apply to the Internet, but content created by broadcasters that is distributed over the Internet is, as relevant, covered (for example in relation to the Code of Conduct). The Policy also addresses the institutional framework for implementing this regulation and a number of related issues, such as rules on news, ownership and advertising.

2. Rationale

Freedom of expression, media freedom and the right to information are all guaranteed by the Constitution of the Kingdom of Bhutan (see Articles 7(2), 7(5) and 7(3) of the Constitution). This Broadcasting Policy is founded on these ideas, including the related ideas that a free, independent and diverse broadcast media will best be able to serve the voice and information needs of the citizens of Bhutan.

In the end, the broadcast media should aim to educate, inform and entertain, and to serve as public platform for discourse that is open to all. It should also play a role in serving as a watchdog of the powerful, including the government. Finally, it should strengthen national responses during emergencies, including by playing a role in ensuring that the public can access the information they need to mitigate the negative impact of disasters and emergencies.

Taking GNH seriously means that the development of the broadcast media, as with all development sectors, needs to be done in a manner that gives effect to the values and principles of GNH. The broadcast media is recognised everywhere as a very important development player. There is an economic aspect to this, as the media is a commercial sector. But there are also a number of other aspects to this, including the role of the broadcast media in fostering national debate, in providing key information to the public, in serving as an underpinning for democracy, in promoting and maintaining national culture and the natural environment, in preserving a strong sense of national identity and unity, in raising awareness and educating the public, and as a source of entertainment.

Figure 1: The way the Broadcasting Policy Promotes the GNH Results Framework

Goal: Promote a Diverse, Sustainable Broadcasting Sector that Operates in the Public Interest: Enable informed decision making and improve human wellbeing			
Strategic Objective: Sustainable & Equitable Development	Strategic Objective: Preservation & Promotion of Culture	Strategic Objective: Good Governance	Strategic Objective: Sustainable Management & Conservation of the Environment
Intermediate Results:	Intermediate Results:	Intermediate Results:	Intermediate Results:

<ul style="list-style-type: none"> - development information shared over the media that reach all of the population - the media report in an accurate way and from different perspectives on development efforts, building public engagement and ownership - the public broadcaster has sufficient capacity to engage in strong development reporting - local and campus/community radios share relevant development information within their communities - there is a reduction in erroneous information being disseminated through the media - the media report professionally on disasters and emergencies 	<ul style="list-style-type: none"> - commercial radio and television stations carry more cultural programming, - more campus and community radios exist and play a role in promoting and preserving culture at local levels - the public broadcaster has sufficient funding and capacity to play a significant role in preserving and promoting culture - the public broadcaster reaches a wider segment of the population, including more geographically isolated people, with its cultural programming 	<ul style="list-style-type: none"> - more private broadcasters – both commercial and campus/community in nature – are able to carry news content, leading to a wider range of views in the media - there is a larger number of broadcasters providing a greater range of perspectives in their news and current affairs programming - there is a reduction in inaccurate and imbalanced news reporting, resulting in better informed citizens - the financial stability of the media is enhanced, making the sector less dependent on the government and hence better able to play its role as watchdog of the powerful - providing the views of the people 	<ul style="list-style-type: none"> - a more diverse broadcasting sector is able to provide more programming on environmental matters, raising public awareness in this area - more broadcasters are encouraged to engage in environmental reporting as part of their news and current affairs programming - local and campus/community radio stations report on environmental issues of concern to local populations - Broadcasters have public interest obligations during disasters
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The existing media laws and policies that were instituted starting in 2006 have now been in force for many years and it is necessary to review them, based on changes in the industry since they were first put into place. To this end, the government is replacing the Bhutan Information, Communications and Media Act. The current draft of this Act includes only a limited number of rules relating to broadcasting. Furthermore, at present, broadcasting is guided largely by a number of directives from the Ministry of Information and Communication (MoIC) and the Bhutan InfoComm and Media Authority (BICMA), and does not constitute or provide a clear and holistic framework for the sector. In the absence of a clear guiding framework, there are concerns that the development of the sector has been driven more by commercial and political interests than GNH and public interest considerations. There is thus a need to supplement the current patchwork of rules with this Policy, and then further legislative amendments in due course.

The broadcast media sector in Bhutan is characterised by a limited number of players, namely two terrestrially broadcast television channels, which are publicly owned, along with a number of nascent cable television distributors and a few public, commercial and community radio stations. The public television channel reaches a large proportion of the population but not all of it. An increasingly large number of Bhutanese households have access to a wide variety of international television channels, which broadcast exclusively foreign content, including advertisements directed at foreign audiences. In light of this situation, it is important to develop the local broadcasting sector further, while taking into account inherent commercial and sustainability constraints.

The public broadcaster suffers from the lack of a clear public service broadcasting framework. Its public service objectives and mandate have not been set out clearly in either law or policy. Despite progress in this area in recent years, its independence is still not guaranteed to the level warranted by either the Constitution or international law. In addition, Bhutan is required to complete the transition from analogue to digital terrestrial television broadcasting by 2020, which will first and foremost affect the public broadcaster, as the only current terrestrial television station. A freeze on the purchase and installation of new analogue transmitters has been imposed, but no decision about how the digital transition will take place has been taken. The new fibre optic cabling network connecting all of the cities and Dzongkhags in the country offers new potential distribution possibilities for both the public and commercial broadcasters, as well as cable distributors.

The regulatory framework for commercial and campus/community broadcasters is both unclear and in need of further development. Clarity is needed on the growth directions for both broadcasting sectors (i.e. as to whether and to what extent there is a need to increase the number of players in these sectors). Further clarity is also needed as to the rules governing the licensing of both of these broadcasting sectors.

Diversity in the broadcasting sector does not mean just increasing the number of available channels and can be promoted in other ways as well. Part of this is about putting in place a clear and effective system for promoting media professionalism and avoiding harm to individuals and society. In tandem to this, there is a need to place positive obligations on broadcasters so as to foster greater internal diversity within media outlets. Such positive obligations may include requirements relating to local content, content produced by independent actors (i.e. not controlled by the broadcasters), news programming and other socially beneficial forms of content (for example directed at women or children).

Another issue facing the television broadcasting sector, at least for channels which distribute via terrestrial transmitters (which is currently just the BBS television channels), is the need to switch off analogue terrestrial transmission at the latest by 2020, in accordance with International Telecommunications Authority (ITU) rules. For BBS, switching its analogue terrestrial transmitters over to digital transmitters would be very costly. Any new television stations that were licensed could also not rely on analogue terrestrial transmission.

This Broadcasting Policy builds on the experience gained from a number of years of media regulation and growth in the country. It also draws on a number of documents and studies, of which the more important are the Information and Media Policy of the Royal Government of Bhutan, the Institutional Plan for the Department of Information and Media (approved by the 246th CCM Session, 23 November 2004), the Bhutan Media Impact Study (2008) and the Bhutan Information and Media Impact Study (2013), the Bhutan Media Development Assessment (2010) and the Capacity Assessment of Media in Bhutan (2014). It is also based on broad consultations with a wide range of Bhutanese stakeholders gathered through workshops and conferences held in October 2015 and February 2016, as well as a large number of meetings with different stakeholders.

This Broadcasting Policy is intended to provide a vision to guide the development of the broadcast media sector in Bhutan for the near future. It sets out relevant policy directions for all three broadcasting sectors, namely public service, commercial, and community broadcasters. It also seeks to clarify the roles of different institutional players, including the MoIC, BICMA and a

proposed Media Council. Finally, it sets rules in a number of other areas with a view to promoting a broadcast media sector that is free, independent and diverse, and that serves to advance the values and principles of GNH rather than simply the political/commercial interests of media owners.

The objectives of this Broadcasting Policy are to:

- I. Ensure that the broadcast media promotes the values of GNH instead of only pursuing political/commercial goals.
- II. Create a robust and diverse broadcast media sector, including in terms of the number of active broadcasting outlets, the different types of outlets and the internal diversity of different broadcasters, with a view to ensuring that the broadcasting sector provides access to all sections of Bhutanese society to media and information, preserves and promotes Bhutan's culture and traditions, and supports vibrant democratic discourse.
- III. Transform BBS into a true public service broadcaster which has broad independence of government and which has a clear mandate to serve the public.
- IV. Put in place clear and fair rules for community radios that support the ability of this broadcasting sector to serve local communities across the country.
- V. Ensure appropriate allocation of spectrum among different users, including broadcasters and telecommunications operators.
- VI. Clarify the roles of the MoIC, BICMA and the Media Council in supporting, developing policy for and regulating broadcasters.
- VII. Promote cost effective, public interest approaches to the distribution of broadcast services, taking advantage of new technologies and sharing the infrastructure which is available in the country where possible.
- VIII. Uphold appropriate professional standards in the media, including advertising, through the adoption of a Code of Conduct to be applied by the Media Council.
- IX. Ensure the fair allocation of advertising based on objective market considerations and the further development of the advertising industry in Bhutan.

3. Definitions

These terms have the following meanings for purposes of this policy:

- "advertisement" means any public announcement intended to promote the sale, purchase or rental of a product or service, to advance a cause or idea or to bring about some other effect desired by the advertiser, for which broadcasting time has been given up to the advertiser, whether public or private, for remuneration or similar consideration;
- "broadcasting" means a service which consists of the preparation of a programme of audiovisual or sound material intended for simultaneous distribution to the public or sections of the public to be received by means of any broadcasting receiving apparatus but does not include communications internal to a private organisation or government body, such as closed circuit television or internal address systems, or communications disseminated over the Internet, unless they consist of a defined broadcasting service (a channel);

- “campus radio” means a radio station which is operated on a non-profit basis by a university or college, which is not governmental or political in nature, and which is primarily run by and mainly serves the special interests and needs of the university or college community, including students;
- “community radio” means a radio station which is controlled by a non-profit entity and operates on a non-profit basis, which is not governmental or political in nature, which carries programming serving a particular geographic community reflecting the special interests and needs of that community (and thus does not unduly serve the interests of any particular NGO, including any NGO which may host or support it), and is managed and operated primarily by members of that community;
- “co-regulation” means a system of regulation which is established by law but which includes significant involvement of the industry being regulated in the running of the system;
- “cross media ownership” means ownership in different media businesses;
- “independent producer” means an individual or company who produces programmes for radio and/or television and who is not controlled by any individual broadcaster;
- “local content” means content which is produced in Bhutan, primarily by citizens of Bhutan;
- “public service announcement” means an announcement which is designed to promote a certain idea or to disseminate certain information to the public, which is in the public interest and which does not have any commercial purpose; and
- “public service broadcaster” means a broadcaster which is subject to public ownership, which is independent of government and which has a mandate to broadcast in the public interest.

4. Policy Statement

4.1 The Public Service Broadcaster: Bhutan Broadcasting Service Corporation

Over the years, the Bhutan Broadcasting Service (BBS) has operated more and more as a public service broadcaster. However, questions remain about the extent to which the BBS is independent on government in terms both of management and content and there is no document setting out clearly the mandate of the BBS and what content, specifically, it is supposed to provide to citizens as a public service broadcaster.

Presently, BBS television is disseminated via a series of analogue terrestrial transmitters which reach most but not all of the country and population, as well as via all local cable distributors and, to a small number of households, via C-Band satellite. The illegal satellite services which are

provided directly from Indian suppliers are beginning to hi-jack BBS channels. One option for transitioning BBS television to digital would be to leapfrog terrestrial transmission, at least for much of the country, by negotiating for satellite transmission of BBS channels, perhaps as part of the new satellite capacity being offered to Bhutan by India. This could achieve universal service (i.e. coverage of the whole country). This would, however, raise issues about services and cost and would need to be done in a manner that did not result in households being denied access to BBS channels.

The Broadcasting Policy supports the following recommendations for BBS:

- 4.1.1 New legislation or a PSB Charter shall be adopted to transform BBS into a true public service broadcaster, in accordance with the following policy recommendations:
- a. The independence of BBS shall be formally guaranteed – including through the manner in which its governing board is appointed, the powers of the governing board, which shall include the appointment of the CEO, and the way in which its funding is provided – and these guarantees should be respected in practice. As part of the guarantee of independence, the BBS shall report to and receive its funding approval from parliament rather than MOF.
 - b. The mandate of BBS shall be set out clearly in the legislation and shall include ensuring that its services are of high-quality and innovative, providing a comprehensive and impartial international, national and local news service for Bhutan, promoting a sense of national identity, supporting educational, cultural and developmental programming, and providing content directed at all sectors of society, including women, youth and children.
 - c. BBS services shall include at least two national television channels, at least two radio channels and a package of services provided over the Internet. BBS shall provide direct coverage of the two houses of parliament and their committees, rather than having a different provider disseminate this programming, albeit subject to an obligation to provide access to this coverage to commercial and community broadcasters.
 - d. In terms of funding, the following rules shall apply:
 - i. Clear limits shall be placed on the overall amount of funding that BBS may obtain from commercial sources – including the maximum amount of time that may be devoted to advertising – which shall be in the range of 15-20 percent. This limit will be monitored through auditing of the finances of the BBS.
 - ii. The rest of the funding for BBS shall be provided via public sources and consideration will be given to alternative sources for this (such as a tax on hydro power, a tax on public companies or a tax on certain types of services, such as mobile phones).
 - iii. The budget for BBS shall be proposed by BBS and approved by parliament, after consultation with government (and in particular the MoIC and Ministry of Finance).
 - iv. BBS shall be required to carry a certain amount of public service announcements for free, for example three to five percent of airtime, but

this shall be carefully defined and a clear procedure for allocating this time fairly and appropriately shall be put in place.

- 4.1.2 In terms of distributing BBS television channels, the practicality and financial implications of migrating the main distribution platform for BBS television to a satellite system shall be studied by BBS and consultations shall be held on this issue. This would involve the licensing of a local satellite provider (see below), operating separately from BBS, with BBS paying for distribution services. BBS shall also continue to provide (digital) terrestrial services in some larger urban areas. To the extent that terrestrial services are maintained, infrastructure sharing arrangements shall be introduced to reduce costs.

4.2 Commercial Services

Currently, there are no private, terrestrial television stations operating from Bhutan, although a number of cable companies do provide local television channels. It remains unclear whether or not a commercial television station would be sustainable in the Bhutanese market but it is clear that, if it were sustainable, there would be considerable advantages to having a local private competitor to BBS. There are a number of commercial radio stations, as well as some existing and planned community radio stations. All of the former, however, are based in Thimphu. There would, once again, be clear benefits to having commercial radio stations operating outside of Thimphu.

The Broadcasting Policy supports the following recommendations for commercial broadcasting services:

- 4.2.1 A tender process for the licensing of one private, commercial television channel shall be held. In due course, and once commercial viability issues have been assessed, consideration will be given to introducing a second channel.
- 4.2.2 Steps shall be taken to encourage the introduction of local, commercial radio stations outside of Thimphu, including by holding tenders for licensing such radios. In the first phase, a maximum of four such licences will be issued. The commercial viability of such stations will be monitored closely and, depending on the results, consideration will be given to issuing additional licences.
- 4.2.3 The local, commercial stations referred to in 4.3.2 may broadcast in local languages, provided that they shall provide at least 30 percent of their programming in the national language, i.e. Dzongkha.

4.3 Campus and Community Radio

At present, there are a small number of existing campus radios, based in university campuses, and licences have been issued to two non-governmental organisations (NGOs) to develop local community-based stations. This has been done in a largely *ad hoc* fashion and in the absence of clear rules.

The Broadcasting Policy supports the following recommendations for campus and community radio:

- 4.3.1 Campus and community radios shall be allowed to carry local news and current affairs content without meeting the stringent requirements for carrying news that apply to other media outlets. However, they shall be strictly prohibited from promoting any particular political party or interest, or from carrying material which denigrates ethnic groups.
- 4.3.2 Efforts will be made to extend, gradually, the presence of campus/community radios in interested campuses/communities across the country, taking into account sustainability issues, including the interest and capacity of local communities.
- 4.3.3 Clear rules on licensing campus and community radios shall be adopted which ensure that such radios benefit from simple licensing processes, including by paying limited or no fees for obtaining a licence or for access to frequencies.
- 4.3.4 The objective of community radio is to serve a particular community; technical limits on their operations, for example as to transmitter power or height, may be imposed, but only where these do not prevent these radios from reaching their communities.
- 4.3.5 The primary objective of campus radio is to serve a particular university or college campus. However, in appropriate cases, the interests of campus radio in also serving the local community surrounding the relevant university or college may also be recognised. In either case, technical limits on their operations, for example as to transmitter power or height, may be imposed, but only where these do not prevent these radios from reaching the communities they are recognised as serving.
- 4.3.6 Campus and community radios shall be able to access different sources of funding, including advertising, albeit subject to the overall restriction of 20 percent of programme time or 12 minutes per hour, and limited to advertising regarding local matters.
- 4.3.7 Campus and community radios shall be allowed to operate in the languages spoken in their communities, provided that a minimum percentage of 30 percent of programming shall be provided in the national language, i.e. Dzongkha.

4.4 Distribution Operations¹

Currently, there are a large number of cable operators across Bhutan, mostly operating in the capital and dzongkhags centres. They provide a bouquet of different international channels, as well as the BBS channels and, often, a channel operated by them. The latter is permitted, but the rules for these channels are not clear. Each cable operator downloads its international channels separately, which requires relatively expensive equipment, giving rise to calls for a central download operation, in the form of a multi-service operator (MSO), which could then distribute channels via the new fibre optic cable connecting larger population centres throughout the country. These operators are in competition with illegal satellite services provided directly from

¹ At present, the main distribution systems in Bhutan are terrestrial systems operated by broadcasters, and cable and satellite systems operated by distributors.

India, which is not fair competition and which is otherwise problematical inasmuch as the latter do not have to comply with local legislation and commercial rules, including as to taxes.

The Broadcasting Policy supports the following recommendations for cable and satellite broadcast distribution undertakings:

- 4.4.1 All cable operators shall be subject to the following public interest rules:
- a. They will be required over time to transition to digital transmission.
 - b. They shall make available a television channel for free to be used by members of the community for community purposes, which the community would then be free to operate. (?)
 - c. They shall be required to carry all BBS channels, as well as any other local television stations which have been licensed.
 - d. They may provide video on demand (VOD) services, subject to any rules and regulations relating to this which may be adopted by BICMA.
 - e. Efforts should be made by cable operators to remove advertising directed at foreign audiences from the channels they distribute.
 - f. Cable operators shall not be responsible for the content on the channels they merely distribute (i.e. not including the channels they operate). Locally licensed channels will be directly responsible for their content and, where foreign channels regularly breached local standards, as set out the Code of Conduct, BICMA could generally prohibit their distribution.
- 4.4.2 Cable operators shall be allowed to continue to operate a channel, subject to the following rules:
- a. These channels shall be subject to the Code of Conduct and any other rules which apply to other channels.
 - b. These channels may carry only locally produced content, i.e. content produced in the geographic area served by the cable operator.
 - c. No public advertising shall be allocated to these channel and these channels shall not be allowed to carry other advertisements except insofar as exceptions to this are approved by the MoIC.
- 4.4.3 BICMA will study the idea of licensing a local MSO service, including as to its commercial viability, based on the idea that channels would be distributed from the central downlink point via the fibre optic cable system, through services offered by telecommunications companies (telcos).
- 4.4.4 MoIC and BICMA will study the idea of licensing a local satellite service, noted above in relation to BBS, including as to its commercial viability and likely impact on other distribution services, including cable operators. Any satelliteservice will be subject to the rules set out in 4.5.1 above. If and when a local satelliteprovider has been licensed, clear rules will be adopted prohibiting the sale or receipt of satellitedirect from foreign suppliers.

4.5 Role of Ministry of Information and Communications

The right to freedom of expression means that government should not engage in the direct regulation of the media, including broadcasters. Otherwise, political rather than purely public interest considerations could impact on decision-making processes. At the same time, government, in its role as the representative of the public, retains policy-making and support roles in relation to the media in democracies.

The Broadcasting Policy supports the following recommendations for the MoIC:

- 4.5.1 The MoIC shall refrain from engaging in direct regulation of broadcasters while retaining a policy role.
- 4.5.2 The MoIC shall continue to play various support roles in relation to the media such as supporting training for media workers, supporting studies relevant to the media, promoting infrastructure sharing and providing direct support to media outlets to develop local content.

4.6 Role of Bhutan InfoComm and Media Authority (BICMA)

BICMA is the regulatory body for the media, including the broadcast media. As such, it is responsible for licensing broadcasters, including commercial and campus/community broadcasters. At the same time, the governing legislation, the Bhutan Information, Communications and Media Act, does not provide much detail in relation to the regulation of broadcasting, including in terms of licensing. The new draft Bhutan Information, Communications and Media Act provides for the establishment of a Media Council to address content issues in the media, including the broadcast media.

There have, over the years, been concerns, including from BICMA, about the independence of the regulator. Better practice is to ensure that bodies which regulate the media are independent both of the media and commercial players, and of the government. The former is necessary if the body is going to be able to regulate the media, while the latter is important for the reasons noted above in relation to government, i.e. to ensure that decisions are made on public interest rather than political grounds. There have also been concerns that BICMA needs to consult more closely with interested stakeholders in relation to regulatory matters concerning the media as well as its wider remit to regulate the telecommunications, postal and other industries.

The Broadcasting Policy supports the following recommendations for BICMA:

- 4.6.1 The key rules governing the licensing of broadcasters shall be set out in legislation, while more detailed general rules, as well as more specific rules for any particular licensing process, shall be set out in regulations to be developed by MoIC. BICMA shall develop relevant rules on implementing the regulations as well as on infrastructure sharing.
- 4.6.2 In addition to other roles for BICMA identified in this Policy, BICMA shall continue to oversee the licensing of broadcasters, in line with any legal rules and the commitments in this Policy.

4.6.3 BICMA shall conduct semi-annual (i.e. every six months) general consultations on issues falling within its remit, as well as more focused consultations on specific regulatory issues as they arise, with a view to improving relations with key stakeholders and to ensuring that the full range of perspectives are taken into account in decision-making processes.

4.6.4 Measures shall be taken, both in the legislation and in other ways, to strengthen the independence of BICMA. This may include, among other things, establishing an independent governing board for BICMA, securing its financial independence, and providing for greater independence of staff from the Royal Civil Service. In addition, an internal practice shall be instituted whereby decisions that have a direct impact on stakeholders are made by committees rather than by individuals.

4.7 Media Council

The new draft Bhutan Information, Communications and Media Act proposes to create a new body, the Media Council, to address this issue, which this Policy endorses.

The Broadcasting Policy supports the following recommendations for the new Media Council:

4.7.1 A Media Council shall be established by law to address content and professional issues in the media, including the broadcast media. The Council shall be a co-regulatory body in the sense that, while it is established by law, it includes significant media participation in its governing structures and it is independent of government.

4.7.2 The Council shall adopt one central Code of Conduct to govern content and advertising standards, and professional behaviour in the media, to replace BICMA's Rules on Content and Code of Ethics for Journalists, after broad consultations with interested stakeholders. The Code shall be regulatory rather than ethical in nature (i.e. standard-setting rather than aspirational) and it shall cover both the print and broadcast media, while allowing new media to opt in on a voluntary basis.

4.8 News: Right and Obligation to Carry

At present, the rules governing the dissemination of news in the media impose formal constraints relating to the number and seniority of staff that are required before a media outlet may disseminate news content. Although designed to protect the public against the irresponsible production of news, in practice these rules limit the amount of news content being disseminated through different media, to the detriment of the public's right to know, the potential of news to create an informed, active citizenry, and the media's ability to fulfil its role as watchdog of the powerful. Furthermore, these formal rules may be criticised for not being a credible way of promoting the desired goal, i.e. quality news, since neither seniority nor having a larger number of journalists can fully guarantee that news will be of high quality while experience in other countries demonstrates that even a small number of young journalists can produce first rate news content. In other countries, news quality is promoted through the professional Code of Conduct rather than these sorts of rules.

The Broadcasting Policy supports the following recommendations in relation to news:

- 4.8.1 The current formal requirements for disseminating news (i.e. relating to the number and seniority of journalists and what type of outlet is involved) shall not apply to broadcasters. Instead, all broadcasters shall be required to respect the relevant standards in the Code of Conduct, which shall include rules, among other things, on accuracy and the requirement to be fair and impartial in the treatment of politics and other matters of public controversy in news and current affairs content.
- 4.8.2 Rules on the broadcasting of election-related material during elections shall be governed by any rules set by the Election Commission of Bhutan.
- 4.8.3 In general new broadcast licensees shall be required to carry at least some news as a condition of getting a licence, although exceptions to this may be made through the licensing process in exceptional cases, provided however that channels which do not carry news shall not be eligible to receive public advertisements.

4.9 Positive Obligations on Broadcasters

Media diversity is widely recognised as a very important element of the right to freedom of expression and as an underpinning of the ability of the media to promote a number of GNH goals, such as serving as a platform for democratic debate and meeting the voice and information needs of citizens. Having a greater, albeit sustainable, number of media outlets is one aspect of such diversity, while another aspect is so-called internal diversity or diversity within media outlets. Professional media outlets will seek to promote internal diversity but democracies also support this objective by imposing positive content standards in this area on broadcasters. The idea of requiring broadcasters to carry news, noted above, is one aspect of this. Others, noted below, include carrying disaster-related information, carrying local content and carrying content produced by independent producers, which promotes greater access to the airwaves and fosters a more robust broadcast production sector in the country. These sorts of rules also promote employment in the media sector.

The Broadcasting Policy supports the following recommendations in terms of imposing positive content obligations on broadcasters:

- 4.9.1 All broadcasters shall be required to broadcast relevant information in disaster or emergency situations, for which they shall not impose charges. More detailed rules on this shall be set out in the Code of Conduct to be adopted by the Media Council.
- 4.9.2 The following minimum local content requirements are hereby established for different types of broadcasters:
 - a. Public television: 85 percent.
 - b. Commercial television: 70 percent.
 - c. Public radio: 80 percent.
 - d. Commercial radio: 50 percent.
 - e. Campus or Community radio: 85 percent.

- 4.9.3 Television channels shall be required, within a period of three years, to provide at least ten percent of their content through programming produced by independent producers.

4.10 Ownership

It is widely acknowledged that undue concentration of media ownership can pose a serious threat to media diversity as well as to the very foundations of democracy, given the enormous power of the media as a platform for democratic debate. To address this, it is common for democracies to adopt special rules preventing the concentration of media ownership, which are normally more stringent than the normal rules governing monopolies and anti-competitive behaviour. Given the very small size of the media market in Bhutan, such rules are of particular importance for the country.

Article 53 of the current Bhutan Information, Communications and Media Act allows the Minister of Information and Communication to adopt rules limiting concentration of media and telecommunications ownership and cross media ownership. It also provides that no one who owns more than 25 percent of one media or telecommunications business may apply for a licence to operate another such business. Article 127 of the new draft Bhutan Information, Communications and Media Act transfers the power to set rules in this area to BICMA and revises the minimum rules so that no one who owns majority shares in one media or telecommunications business may be permitted to own more than five percent of the shares of another such business.

Both Acts rule out foreign ownership of the media, while the new draft Act allows the Cabinet to approve foreign direct investment in the media. While it is clearly important that the media sector in Bhutan is owned and controlled by Bhutanese citizens and companies, at the same time, in some other countries, the benefits to allowing for some foreign participation the media, including attracting much-needed funds and expertise into the sector, have been recognised.

The Broadcasting Policy supports the following recommendation in relation to ownership of the media:

- 4.10.1 No one who owns majority shares in one media or telecommunications business shall be allowed to own more than five percent of another such business, whether in the same sector or as a form of cross ownership.
- 4.10.2 Studies shall be undertaken by MoIC to assess what the impact would be of opening up the broadcasting sector to more foreign involvement, for example along the lines of a rule that would presumptively place a ceiling in foreign participation, perhaps of 20 or 25 percent.

4.11 Advertising

Advertising is the lifeblood of the media industry and in most countries, including Bhutan, provides the vast bulk of the funding for the media, with subscriptions or distribution fees

providing a relatively small additional supplement to this (although direct public funding for the public broadcaster represents a fairly significant additional funding source in Bhutan, albeit limited to one broadcaster). This situation is further complicated in Bhutan by the fact that a large proportion of all advertising revenue comes from public sources. Part of the reason for this, in turn, is the relatively small private sector and limited awareness of commercial businesses in the country about the potential of advertising to increase their sales and strengthen their business models.

In this context, many media have become dependent on government advertising, which is now being transformed from a system of sharing among media outlets to being allocated on a cost-benefit basis. This is an unhealthy situation both for the media, because it poses a threat to its independence from government, and for the government, because advertising risks being used as a non-performance based subsidy system which is costly and inefficient. It has therefore been suggested that the placement of public advertising should be done on an objective, cost-benefit based (market) model. A need for regulatory standards relating to advertising, which if not controlled could work against GNH values, has also been proposed. Finally, future growth in advertising revenues will have to come largely from the private sector and measures need to be taken to promote the growth of this sort of advertising.

The Broadcasting Policy supports the following recommendations relating to advertising:

- 4.11.1 Public advertising through the media, including the broadcast media, shall be allocated according to objective (market based) principles based on the idea of reaching the intended audience rather than the idea of supporting the media (circulation and reach). To achieve this, the following measures shall be undertaken:
 - a. The MoIC shall adopt a clear and fair policy/guideline on the allocation of public advertising, based on the above.
 - b. BICMA shall undertake periodic audits to assess the circulation and reach of different media outlets, to serve as an evidence-based system for the allocation of public advertising.
 - c. Media outlets shall be required to be open about their circulation and reach, including to existing and potential advertisers.
 - d. BICMA shall undertake a study on the cost/benefits of public advertising campaigns, which should feed into a review of the nature and objectives of this form of advertising.
- 4.11.2 To mitigate the potential impact of the above on the media, a maximum limit of sixty percent (based on???) shall be placed on the overall amount of public advertising that may go to the public media, with the rest of this type of advertising being allocated to other media outlets, albeit still according to objective (market based) principles.
- 4.11.3 To prevent harmful advertising and to ensure that advertising conforms, as far as possible, to GNH values, the Media Council shall include in its Code of Conduct the following rules governing advertisements in the media:
 - a. Overall limits on the amount of advertising that may be carried in different types of media, including public, commercial and community broadcasters.

- b. Rules which require advertisements to be legal, decent and truthful, and which limit the extent to which advertising may promote unsustainable consumption which is contrary to GNH values.
- 4.11.4 The MoIC shall raise awareness among businesses about the benefits associated with placing advertisements in the media.
- 4.11.5 The idea of using local human resources for producing advertisements shall be promoted by the MoIC.

4.12 Other Policy Commitments

The Broadcasting Policy supports the following recommendations relating to other matters:

- 4.12.1 Subject to other pressures regarding access to the fibre optic cabling network, consideration shall be given to providing telecommunications companies with a second pair of fibres on the fibre optic network, which they can use as a backup distribution system.
- 4.12.2 Broadcasters shall be required to preserve (archive) material of historical importance so that it is available for future use. If they do not have the resources to do this themselves, or do not wish to provide this service, the material can be transferred to the National Library and Archives for this purpose.
- 4.12.3 The Ministry of Home and Cultural Affairs (MoHCA) shall develop a list of 'national events', access to media coverage of which is deemed to be of particular importance to the citizens of Bhutan. Wherever possible, these events shall be open to the media, so that all media shall be entitled to cover them. Where this is not feasible, and media access is restricted, MoIC shall ensure equitable access by media which do not have direct access via those media which do have direct access.
- 4.12.4 The MoIC shall consider ways to support efforts by broadcasters to get their signals to reach hard to get (last mile) locations. One option would be to provide performance-based incentives for this, such as tax breaks.

5. ***Legislative Compliance***

The Broadcasting Policy and media and other laws shall not contradict each other.

- 5.1 The Bhutan Information, Communications and Media Act is the main legislation for the media, including the broadcast media. The media policy and broadcast policy will influence the Act.
- 5.2 Broadcasting legislature will need to be adopted to so as to implement the commitments in this Policy relating to the BBS as set out in section 4.2.1.
- 5.3 This Policy is consistent with the Copyright Act of the Kingdom of Bhutan, 2001, and the Penal Code of Bhutan.

6. Implementation Procedure

This Broadcasting Policy recognises that a number of different actors have roles to play in its implementation. These include the broadcasting industry itself, various government ministries, including the MoIC and the Ministry of Finance, BICMA, the Media Council and civil society actors. Annexure 1 includes more detail on the implementation responsibilities of these and other actors. Under this Policy, it is intended that BBS should be accountable to the people of Bhutan through the Parliament. It shall also be required to have its accounts independently audited and in this way be financially responsible to the Ministry of Finance.

7. Monitoring and Evaluation

The implementation of this Broadcasting Policy will be the subject of periodic monitoring and evaluation, to be led by the MoIC, with a view to keeping track of progress toward meeting the Policy's objectives and commitments.

More specific monitoring and evaluation commitments include the following:

- 7.1 The Department of Information and Media of the MoIC shall have overall responsibility for monitoring the implementation of this Policy and for ensuring that its objectives are successfully achieved. This shall include monitoring to make sure that the various commitments relating to the MoIC, BICMA and Media Council are discharged.
- 7.2 BICMA shall be responsible for monitoring the extent to which commitments relating to licensing and compliance with licence rules and conditions are kept and respected.
- 7.3 The Media Council shall be responsible for monitoring compliance with the rules relating to content, including advertising, positive content obligations and compliance with the rules in the Code of Conduct.
- 7.4 Civil society also has a broad role in monitoring implementation of various aspects of this Policy, including the extent to which the independence of BBS is guaranteed and respected and its mandate conforms to the commitments set out in this Policy. (???)

8. Approval Dates

[TO BE ADDED]

ANNEXURE 1: Implementation Responsibilities

1. To ensure coordination and mutual support among the different stakeholders responsible for implementing this policy, a mechanism for regular dialogue and exchange of views will be established.
2. The MoIC shall undertake the following roles:
 - continue in general to develop policies for and provide support to the broadcasting sector;
 - develop legislation for BBS;
 - introduce rules on the independence of BICMA and the establishment of the Media Council;
 - develop an advertising policy/guidelines, and promote the idea of advertising among private businesses; and
 - look into the best ways to allocate capacity on the fibre optic cable, including to telecommunications companies.
3. BICMA shall undertake the following roles:
 - continue to issue licences to commercial broadcasters and community radios and, as appropriate, to a local satellite service provider and an MSO;
 - introduce relevant rules on licensing, community radios and cable operators;
 - conduct relevant consultations with interested stakeholders, including a general semi-annual consultation for all key stakeholders;
 - study the viability of a local satellite system and of an MSO;
 - introduce rules on carrying news and positive content obligations into licences as relevant;
 - develop relevant rules relating to concentration of media ownership and conduct studies as to the impact of introducing more liberal rules on foreign ownership; and
 - undertake audience audits and studies on the impact of public advertising.
4. The Media Council shall adopt and apply the Code of Conduct, including its rules on disseminating information in disaster and emergency situations.
5. The BBS shall provide public broadcasting services in line with its mandate, including by carrying an appropriate quantity of public service announcements.
6. The parliament shall approve the budget for BBS and the Ministry of Finance shall ensure that the budget is allocated in a practical way to BBS.
7. Media outlets and distribution operators shall respect the rules and commitments in this Policy and shall take advantage of the opportunities it creates to provide robust, public interest broadcasting services to the people of Bhutan.