



# **The Broadcasting Policy of the Royal Government of Bhutan**

**Submitted by**

**Department of Information and Media  
Ministry of Information and Communications**

## Table of Contents

<b>1. Policy Name and Scope</b> .....	<b>3</b>
<b>2. Rationale</b> .....	<b>3</b>
<b>3. Definitions</b> .....	<b>6</b>
<b>4. Policy Statement</b> .....	<b>7</b>
4.1 Gross National Happiness.....	7
4.2 The Public Media: Bhutan Broadcasting Service Corporation .....	8
4.3 Commercial Services.....	9
4.4 Community Radio .....	10
4.5 Cable and Satellite Operations.....	11
4.6 Role of Ministry of Information and Communication.....	12
4.7 Role of Bhutan Information, Communication and Media Authority (BICMA) .....	13
4.8 Media Council.....	14
4.9 News: Right and Obligation to Carry.....	14
4.10 Positive Obligations on Broadcasters.....	15
4.11 Ownership.....	16
4.12 Advertising .....	16
4.13 Other Policy Commitments.....	18
<b>5. Legislative Compliance</b> .....	<b>18</b>
<b>6. Implementation Procedure</b> .....	<b>19</b>
<b>7. Monitoring and Evaluation</b> .....	<b>19</b>
<b>8. Approval Dates</b> .....	<b>20</b>
<b>ANNEXURE 1: Implementation Responsibilities</b> .....	<b>21</b>

## **1. Policy Name and Scope**

The name of this Policy is the 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, commercial and community broadcasters – as well as distribution services, including distribution terrestrially and by cable and satellite technologies. This Policy does not, in general, apply to Internet, but content created by broadcasters that is distributed over the Internet is, as relevant, covered (for example in relation to the professional code) and other online operators may submit themselves to the code on a voluntary basis. The Policy also addresses the institutional framework for conducting 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 line with the country's policy of promoting Gross National Happiness (GNH). The Broadcasting Policy seeks to set rules for the broadcast media sector so as to support it in promoting the achievement of various national goals, again founded on the values and principles of GNH.

Bhutan has chosen a unique approach to development in different sectors based on the idea of GNH, which is also one of Bhutan's most important intellectual gifts to the rest of the world. GNH views the goals of development as not being simply economic in nature but as being far broader and more holistic, ultimately so as to provide for the true self-realisation of individuals as part of a wider collective. The core premise of GNH is that the ultimate aspiration of every human being is happiness.

Taking GNH seriously means that the development of the broadcast media, like 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, in preserving a strong sense of national identity and unity, in raising awareness and educating the public, and as a source of entertainment. While other media, such as the print and online media, also play these roles, in countries around the world, including Bhutan, the broadcast media is increasingly important, even dominant, in relation to many of them.

A number of implications flow from the fact that this Broadcasting Policy is rooted in GNH principles and values. First, in line with this, an attempt has been made to ensure that this Policy is clearly articulated so as to avoid ambiguity, a risk of confusion and the possibility of abuse. Second,

although it is recognised that private actors engage in media activities among other things for commercial reasons, the important role of the broadcast media in society means that this Policy recognises the need for this media sector to serve other social goals as well. Third, and related to the previous point, this Policy seeks to promote high standards and robust diversity in the broadcast media sector, while recognising that this needs to be balanced against the need for the sector to be sustainable over time. Fourth, the objective of having the broadcast media meet national goals, values and aspirations needs to be achieved in a manner that respects the freedom and independence of the sector.

The media laws and policies that were instituted in 2008 have now been in force for many years and it is timely to review them, based on what has been learnt since they were first put into place. To this end, the government is currently considering a new Bhutan Information, Communications and Media Act. At the same time, 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), the Bhutan Information, Communication and Media Authority (BICMA) and the government in a way which 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 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 one terrestrially broadcast television station, which is publicly owned, along with a number of nascent cable television channels 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, mainly Indian, 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. And there is a lack of clarity about its longer-term funding situation, and in particular where its funding is supposed to come from. In addition, Bhutan is required to complete the transition from analogue to digital terrestrial television broadcasting by 2020, which will first and foremost impact on the public broadcaster, as the only 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 both commercial and community broadcasters is both unclear and in need of further development. Clarity is needed as to 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 sectors.

Diversity in the broadcasting sector does not depend solely on increasing the number of available channels but 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 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). 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.

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), and the Bhutan Media Development Assessment (2010). It is also based on broad consultations with a wide range of Bhutanese stakeholders gathered through workshops and conferences held in November 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, commercial and community broadcasters. It also seeks to clarify the roles of different institutional players, including the MOIC, BICMA and a new 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 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 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 sectors acts to preserve and promote Bhutan's culture and traditions and to support vibrant democratic discourse.

- III. Transform BBS into a true public service broadcaster which is independent of government and which has a clear mandate to serve the public and the financial wherewithal to meet that mandate.
- 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. Clarify the roles of the MOIC, BICMA and the Media Council in supporting, developing policy for and regulating broadcasters.
- VI. Promote cost effective, public interest approaches to the distribution of broadcast services, including through taking advantage of the newest technologies, the infrastructure which is available in the country and infrastructure sharing where possible.
- VII. Uphold appropriate professional standards in the media, including in terms of advertising, through the adoption of codes and other rules to be applied by the newly established Media Council.
- VIII. 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 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 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;
- “community radio” means a radio station which is controlled by a non-profit entity and operates on a non-profit basis, carries programming serving a particular community including by reflecting the special interests and needs of that community, 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;
- “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 Gross National Happiness**

As noted above, a clear objective of GNH is to promote a wider set of values than simply economic growth as part of the development process. For broadcasting, this includes promoting commercial success in the sector but also a range of other important social and national values. These include very general values, such as high quality content and media diversity, while also respecting the need for the media to be free and independent, without which it cannot serve other important social values, such as contributing to good governance and democracy.

It may be noted that a free, independent and diverse broadcasting sector can support all of the nine GNH pillars, namely Psychological Wellbeing, Health, Education, Culture, Good Governance, Community Vitality, Ecological Diversity and Resilience, Living Standards and even Time Use. The role of the media as the fourth estate, and as a platform for democratic debate, support its role in the areas of good governance and community vitality. In its guise as a purveyor of information, and especially high-quality, development-oriented information, the media supports progress in the areas of health, education and ecological diversity and resilience, as well as effective use of time. A strong broadcasting sector which promotes public interest content will also serve as a vehicle for promoting the development of local and national culture and facilitate dialogue and debate with the community, which is essential for community vitality. Broadcasting is also, in many countries, an important source of entertainment, which can support psychological wellbeing and time use in the sense of not spending too much time on work. Cross cutting these are the important roles of the media in terms of raising national consciousness, mitigating the impact of disaster and supporting a human rights based approach to development, including gender equality.

To support GNH values and principles, this Broadcasting Policy will promote the following:

- 4.1.1 The positions in the Policy should in most cases specifically aim to support GNH values and principles and should always take these values into account.
- 4.1.2 The Policy should, while respecting media freedom and independence, support the ability of the broadcast sector to promote public interest goals which align with GNH values and principles, rather than just commercial goals, including by carrying educational content, by facilitating community and democratic debate, by disseminating useful development-

related information, by encouraging local cultural output, and by providing appropriate entertainment content.

## 4.2 The Public Media: Bhutan Broadcasting Service Corporation

In 1992, His Majesty the Fourth King issued a Kasho, or royal edict, declaring that the Bhutan Broadcasting Service (BBS) and Kuensel should be delinked from government and operate as autonomous bodies, and they were subsequently established as corporations governed by an editorial board. However, as entities subject to the Corporations Act, their financial situation as public media is not clear, and there have been suggestions from some quarters that they should operate on a greater cost-recovery basis, rather than being supported largely from the public purse, although this is not consistent with their public service role. Furthermore, given that the Ministry of Finance appoints the editorial board, there have been questions about the extent to which the BBS is independent of government in terms both of management and of content. Finally, 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.

For the BBS television channels, there are also issues regarding transmission. 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. Those households which purchase direct-to-home (DTH) satellite services directly from Indian suppliers do not receive the BBS channels. Bhutan will need to transition to digital transmission at the latest by 2020, in accordance with International Telecommunications Authority (ITU) rules, in a move that could be very costly.

An alternate option would be to leapfrog this option, at least for much of the country, by negotiating for DTH transmission of BBS channels, perhaps as part of the new satellite capacity being offered to Bhutan by India. 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:

4.2.1 New legislation should be adopted to transform BBS into a true public service broadcaster, in accordance with the policy recommendations below.

4.2.2 The independence of BBS should be formally guaranteed – including through the manner in which its governing board is appointed, the powers of the governing board, which should include the appointment of the Director General, and the way in which its funding is provided – and these guarantees should be respected in practice – including by government officials refraining from attempting to give instructions to BBS. As part of the guarantee of independence, the BBS should report annually to parliament rather than directly to the government and the rules and processes relating to staff should, as far as this is appropriate, be delinked from the Bhutan Royal Civil Service Commission.

- 4.2.3 The mandate of BBS should be set out clearly in law, after a broad public consultation as part of a process to determine what that mandate should be, which should 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 and youth and children.
- 4.2.4 BBS services should include at least two national television channels, at least two radio services and a package of services provided over the Internet. With the transition to digital, consideration should be given to having BBS provide direct coverage of the two houses of parliament and their committees, rather than having a different provider disseminate this programming.
- 4.2.5 In terms of funding, the following policy commitments apply:
- a. The law should place clear limits 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 should be in the range of 20-25 percent.
  - b. The rest of the funding for BBS should be provided via public sources and consideration should 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).
  - c. The budget for BBS should be proposed by BBS and approved by parliament, after consultation with government (and in particular the MOIC and Ministry of Finance).
  - d. BBS should be required to carry a certain amount of public service announcements for free, for example three to five percent of airtime, but these should be carefully defined in law and a clear procedure for allocating this time fairly and appropriately should be put in place.
- 4.2.6 In terms of distributing BBS' content, especially television, the practicality and financial implications of migrating the main distribution platform for BBS television to a DTH system should be studied and consultations should be held on this issue, taking into account that this could potentially achieve universal service (i.e. coverage of the whole country), depending on how it was done. This would probably involve the licensing of a local DTH provider (see below), operating separately from BBS, with BBS paying for distribution services. It may also involve continuing to provide (digital) terrestrial services in some larger urban areas. To the extent that terrestrial services are maintained, infrastructure sharing arrangements should be introduced to reduce costs.

### 4.3 Commercial Services

Currently, there are no private, terrestrial television stations operating from Bhutan, although a number of cable companies do provide their own local television channels. A process for licensing two private stations was undertaken recently, but was brought to an end by the government. It remains unclear whether or not a commercial television station would be sustainable in the

Bhutanese market but it is not possible to determine this except by licensing one and seeing how it goes. 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. Once again, it is not clear whether and to what extent commercial radio stations operating outside of Thimphu would be commercially viable, but this could only be determined through pilots.

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

- 4.3.1 A tender process for the licensing of one private, commercial television channel should be held. In due course, and once commercial viability issues have been assessed, consideration should be given to introducing a second channel.
- 4.3.2 Steps should be taken to encourage the introduction of local, commercial radio stations outside of Thimphu, in larger Dzongkhags, including by holding tenders for such radios. The commercial viability of such stations should be monitored closely and, depending on the results, consideration should be given to issuing additional licences.

#### 4.4 Community Radio

At present, there are a small number of existing community radios, based in university campuses, and licences have been issued to two non-governmental organisations (NGOs) to open up additional, local community-based stations. This is in line with international standards, which call for the development of a community broadcasting sector, but it has been done in a largely *ad hoc* fashion and in the absence of clear rules in the legislation or regulations. Among other things, there is no clear definition of what constitutes a community broadcaster, no clear rules for how such stations should be licensed and no clear conditions on the operations of such stations.

The Broadcasting Policy supports the following recommendations for community radio:

- 4.4.1 Clear rules, either in the form of provisions in the Bhutan Information, Communications and Media Act or regulations under that Act, should be adopted to give effect, as relevant, to the following policy recommendations.
- 4.4.2 A clear definition of a community radio station should be set out in law, which should include a requirement that the radio operates on a non-profit basis and is not governmental or political in nature, and serves and has links to an identifiable community (and thus does not unduly serve the interests of any particular NGO, including any NGO which may host or support it).
- 4.4.3 Community radios should 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 should be strictly prohibited from promoting any particular political party or interest, or from carrying material which denigrates ethnic groups. The rules should also clarify the role of community radios during elections.

- 4.4.4 Efforts should be made to extend, gradually, the presence of community radios in interested communities across the country, taking into account sustainability issues, including the interest and capacity of local communities. The existence of other media reaching and serving local communities should be one, but only one, consideration in this regard.
- 4.4.5 Clear rules on licensing community radios should be set out in law, 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.
- 4.4.6 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 these should not be so stringent as to make it impossible for these radios to reach their communities.
- 4.4.7 Community radios should be able to access different sources of funding, including advertising, albeit subject to overall restrictions (for example to 20 percent of programme time or 12 minutes per hour) and limited to local matters.
- 4.4.8 Community radios should be allowed to operate in the languages spoken in their communities, provided that a minimum percentage of programming, say 30 percent, to be provided in the national language, i.e. Dzongkha, may be set by regulation.

## 4.5 Cable and Satellite Operations

Currently, there are a large number of cable operators across Bhutan, mostly operating in the capital and different Dzongkhags. 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 DTH services provided directly from 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 and so on.

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

- 4.5.1 All cable operators should be subject to the following public interest rules:
  - a. For the time being, they will be encouraged but not required to move to digital transmission, noting that while this is not covered by the ITU's rules on digital

transition, there would be pressure from DTH services, which are digital, and there are also benefits for customers.

- b. They should make available a television channel for community purposes, which the community would then be free to operate, subject to any rules and regulations relating to this which may be adopted by BICMA.
  - c. They should 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 to remove advertising directed at foreign (mainly Indian) audiences from the channels they distribute, noting that this is not easy to achieve.
  - f. Cable companies should not be responsible for the content on the channels they merely distribute (i.e. not including their own channels). Locally licensed channels would be directly responsible for their content and, where foreign channels regularly breached local standards, as set out in any codes of conduct, BICMA could generally prohibit their distribution.
- 4.5.2 Cable operators should be allowed to continue to distribute their own channel, subject to the following rules:
- a. These channels will be subject to any code of conduct and any other rules which apply to other channels.
  - b. Clear limits on the amount of advertising that may be carried on these channels should be set, which may be more stringent than the rules for other channels, taking into consideration the mainly cheaper content carried on these channels. Consideration should be given to ruling out any allocation of public advertising to these channels.
- 4.5.3 The idea of licensing a local MSO service should be studied, 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).
- 4.5.4 The idea of licensing a local DTH satellite service, noted above in relation to BBS, should be studied, including as to its commercial viability and likely impact on other distribution services, including cable operators. Any DTH service should be subject to the rules set out in 4.5.1 above. If and when a local DTH provider has been licensed, rules should be adopted prohibiting the sale or receipt of DTH direct from foreign (Indian) suppliers.

## 4.6 Role of Ministry of Information and Communication

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:

- 4.6.1 The MOIC should refrain from engaging in direct regulation of broadcasters while retaining a policy role, for example as to the number of television stations that should be licensed or the digital technology that is best suited for the country.
- 4.6.2 The MOIC will continue to play various support roles in relation to the media.

#### 4.7 Role of Bhutan Information, Communication and Media Authority (BICMA)

BICMA is the main regulatory body for the media, including the broadcast media. As such, it is responsible for licensing broadcasters, including commercial and 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, the other main regulatory function in this area.

There have, over the years, been concerns, including from BICMA, about the independence of the body. 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:

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

- 4.7.4 Measures should 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 should be instituted whereby decisions that have a direct impact on stakeholders are made by committees rather than by individuals.

## 4.8 Media Council

At the moment, professional and content issues relating to media outlets are overseen by BICMA, which has adopted a set of Rules on Content and a Code of Ethics for Journalists which establish standards for this. There have been complaints from various stakeholders about problems with this system. There have, in particular, been suggestions that BICMA is not the appropriate body to regulate content because of both its relative lack of independence and its lack of specialised expertise in this area. 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:

- 4.8.1 A Media Council should be established by law to address content and professional issues in the media, including the broadcast media. The Council should 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.
- 4.8.2 The Council should adopt one central code to govern content 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 should be regulatory rather than ethical in nature (i.e. standard-setting rather than aspirational) and it should cover both the print and broadcast media, while allowing new media to opt in on a voluntary basis.

## 4.9 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 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 is any guarantee of quality news 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 rather than these sorts of rules.

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

- 4.9.1 The current formal requirements for disseminating news (i.e. relating to the number and seniority of journalists and what type of outlet is involved) should not apply to broadcasters and, instead, all broadcasters should be required to respect the relevant standards in the professional code, which will include rules, among other things, on accuracy and balance in news content.
- 4.9.2 Instead of restrictions, in general new broadcast licensees will be required to carry at least some news as a condition of getting a licence, in recognition of the importance of news to creating an informed, active citizenry.

#### 4.10 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, while others are noted below.

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

- 4.10.1 All broadcasters should be required to broadcast relevant information in disaster or emergency situations, free of charge. More detailed rules on this should be set out in regulations to be adopted by the Media Council.
- 4.10.2 Minimum local content quotas should be established by law for different types of broadcasters, namely television and radio, local or national, and public, commercial or community. As an alternative, the production of local content could be incentivised, for example through tax benefits or subsidies.
- 4.10.3 Consideration should be given to requiring at least some broadcasters, in particular television channels, to carry at least a minimum percentage of content produced by independent producers, as a way of promoting greater access to the airwaves and of fostering a more robust broadcast production sector in the country.

## 4.11 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 may be 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 24 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 there can be important benefits to allowing for some foreign participation the media, including attracting much-needed funds and expertise into the sector.

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

4.11.1 The existing and proposed new rules, which essentially limit one person to owning one media or telecommunications business, with the potential for very limited ownership of another such business, should be maintained, taking into account the very small size of the Bhutanese media market. Given the clear and fairly comprehensive nature of these rules, there is limited need for additional rules regarding limits to be set out in regulations (although there may be a need for other types of rules, such as to clarify how ownership is to be measured).

4.11.2 Studies should be undertaken 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 allow some maximum amount of foreign participation, perhaps of 20 or 25 percent.

## 4.12 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 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 has historically been shared among media outlets rather than being allocated on a cost-benefit basis, for their survival. 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 a more 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.

The Broadcasting Policy supports the following recommendations relating to government advertising:

- 4.12.1 Public advertising through the media, including the broadcast media, should 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. To achieve this, the following measures should be undertaken:
  - a. The MOIC should adopt a clear and fair policy on the allocation of public advertising, based on the above.
  - b. BICMA should undertake periodic audits to assess the audience share and reach of different media outlets, to serve as an evidence-based system for the allocation of public advertising.
  - c. Media outlets should be required to be open about their audience share and reach, including to existing and potential advertisers.
  - d. BICMA should also 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.
- 4.12.2 To mitigate the potential impact of the above on the media, and taking into account the dominance of the public media, maximum limits should be placed on the overall amount of public advertising that may go to the public media, for example of sixty percent, with the rest of this type of advertising being allocated to other media outlets. Consideration should also be given to precluding the allocation of government advertising to cable channels, given their relatively low operational costs and limited public interest content.

- 4.12.3 To prevent harmful advertising and to ensure that advertising conforms, as far as possible, to GNH values, the Media Council should adopt a code governing advertisements in the media. The code should include, among other things:
- 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.
- 4.12.4 Future growth in advertising revenues will have to come from the private sector and, to this end, the government should raise awareness among businesses about the benefits associated with placing advertisements in the media.
- 4.12.5 The idea of using local human resources for producing advertisements should be promoted by the government and advertisement production companies.

#### 4.13 Other Policy Commitments

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

- 4.13.1 Subject to other pressures regarding access to the fibre optic cabling network, consideration should be given to providing telecommunications companies with a second pair of fibres, which they can use as a backup distribution system.
- 4.13.2 Broadcasters should 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 Archives for this purpose.
- 4.13.3 Consideration should be given to ways to support efforts by broadcasters to get their signals to reach hard to get (last mile) locations. One option here would be to provide performance-based incentives for this, such as tax breaks.
- 4.13.4 Broadcasters should always be required to be fair and impartial in their treatment of politics and other matters of public controversy. Rules on the broadcasting of election-related material should be governed by rules set by the Election Commission of Bhutan.

### 5. *Legislative Compliance*

The main legislative rules governing the media, in the form of the Bhutan Information, Communications and Media Act, are about to be replaced by a new Bhutan Information, Communications and Media Act, which is currently still in draft form. Certain elements of this Broadcasting Policy will require amendments or additions to that Act to be implemented, and the

Policy also envisages that legislation will be adopted to transform BBS into a public service broadcaster.

- 5.1 The Bhutan Information, Communications and Media Act is the main legislation for the media, including the broadcast media, and certain changes will need to be introduced into that Act to implement this Policy.
- 5.2 A new law governing the BBS will need to be adopted to give effect to the commitments in this Policy relating to the BBS.
- 5.3 There may be a need to review other legislation, for example relating to competition and foreign investment, to give effect to other commitments in this Policy.

## **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.

## **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 Ministry of Information and Communications 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, including the relevant studies and audits, relating to the MOIC, BICMA and Media Council are discharged.
- 7.2 BICMA will 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 will be responsible for monitoring compliance with the rules relating to advertising, the positive content obligations and compliance with the rules in the various codes.
- 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 Ministry of Information and Communications shall undertake the following roles:
  - continue in general to develop policies for and provide support to the broadcasting sector;
  - develop legislation for BBS;
  - study the viability of a local DTH system and of an MSO;
  - introduce rules on community radios into the Bhutan Information, Communications and Media Act;
  - introduce rules on the independence of BICMA and the establishment of the Media Council into the Act;
  - develop an advertising policy and rules, and promote the idea of advertising among private businesses; and
  - look into the best way to allocate capacity on the fibre optic cable, including to telecommunications companies.
3. BICMA shall undertake the following roles:
  - continue to issue licences to private broadcasters and community radios and, as appropriate, to a local DTH service provider and an MSO;
  - introduce relevant regulations on licensing, community radios and cable operators;
  - conduct relevant consultations with interested stakeholders, including a general semi-annual consultation for all key stakeholders;
  - 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 codes on professionalism and advertising, as well as 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.