

Added by the Hon Prime Minister in the course of his closing speech on the Independent

(222)
(1)



Broadcasting Authority
(Amendment) Bill
(No. XVIII of 2021)

on 30 Nov - 2021
Station
Clerk of Assembly

PRIME MINISTER'S OFFICE
REPUBLIC OF MAURITIUS

1162/3/2 V4

24 July, 2007

The Director
Independent Broadcasting Authority
5 De Courson Street
Curepipe

Dear Sir,

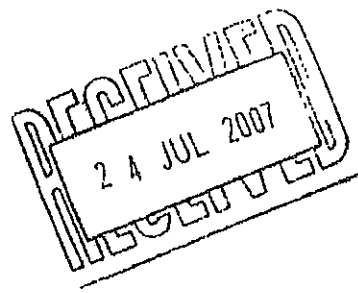
Proposed Amendments to IBA Act

Please find enclosed a copy of the Independent Broadcasting Authority (Amendment) Bill together with a brief overview thereof.

- 2. It would be appreciated if you would examine the document and submit your views thereon to this Office at latest by 10 August 2007.

Yours faithfully,

(A. Pursunon)
for Secretary to Cabinet &
Head of the Civil Service



Dear Chairman!

I suggest that this doc be circulated to all Board Members for their views. A special Bd meeting could be held some time before 10 August to submit views of the Authority within the prescribed

Seen
24/07/07

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**THE INDEPENDENT BROADCASTING AUTHORITY
(AMENDMENT) BILL
(No. of 2006)**

Explanatory Memorandum

The object of this Bill is to amend the Independent Broadcasting Authority Act in order –

- (a) to introduce a definition of broadcasting that will be in line with the existing legislation governing the information and communication technologies sector;
- (b) to provide that the Independent Broadcasting Authority shall ensure that broadcasting services shall not encourage disharmony, or feelings of enmity, hatred or ill-will between religious and racial groups, or communities;
- (c) to create a new compliance body called the Broadcasting Compliance Committee which shall have -
 - (i) enhanced powers of investigation into complaints of breaches of broadcasting licences, code of conduct, code of ethics, code of advertising practice as well as unfair treatment, infringement of privacy, vilification and disparaging of people;
 - (ii) power to order remedial measures and payment of administrative pecuniary penalties;
 - (iii) revocation and suspension of licences for contravention of the law, compliance with directions issued by the Committee and other shortcomings on the part of licensees.

Dr. N. RAMGOOLAM

*Prime Minister, Minister of Defence and Home
Affairs, Minister of Civil Service & Administrative
Reforms and Minister of Rodrigues & Outer Islands*

..... 2006

THE INDEPENDENT BROADCASTING AUTHORITY
(AMENDMENT) BILL
(No. of 2006)

ARRANGEMENT OF CLAUSES

Clause

1. Short title
2. Interpretation
3. Section 2 of principal Act amended
4. Section 4 of principal Act amended
5. Section 6 of principal Act amended
6. Section 19 of principal Act amended
7. Section 22 of principal Act amended
8. New Section 22A added
9. Section 24 of principal Act repealed and replaced
10. Section 25 of principal Act repealed
11. Section 27 of principal Act amended
12. Heading of Part V of principal Act deleted and replaced
13. Section 30 of principal Act repealed and replaced
14. New sections 30A and 30B added
15. Section 31 of principal Act amended
16. Section 32 of principal Act amended
17. Section 33 of principal Act amended
18. Section 36 of principal Act amended
19. First Schedule to principal Act amended
20. Third Schedule to principal Act amended
21. Transitional provisions
22. Commencement

A BILL

To amend the Independent Broadcasting Act

ENACTED by the Parliament of Mauritius, as follows –

1. Short title

This Act may be cited as the Independent Broadcasting Authority (Amendment) Act 2006.

Interpretation

In this Act -

"principal Act" means the Independent Broadcasting Authority Act.

3. Section 2 of principal Act amended

Section 2 of the principal Act is amended -

- (a) by deleting the definition of "broadcast" and replacing it by the following definition -

"broadcast" means the emission or transmission of sounds or images for reception by the public;

- (b) by deleting the definitions of "Complaints Committee" and "Mauritius Telecommunication Authority";

- (c) by inserting the following definitions in their appropriate alphabetical places -

"Committee" means the Broadcasting Compliance Committee established under section 30;

"ICT Authority" means the ICT Authority established under section 4 of the Information and Communication Technologies Act 2001;

4. Section 4 of principal Act amended

Section 4 of the principal Act is amended -

- (a) in paragraph (i), sub paragraph (i) by deleting the words "racial hatred leading to disorder or offending public feeling" and replacing them by the words "disharmony, or feelings of enmity, hatred or ill-will between religious communities and racial groups";

- (b) in paragraphs (m) and (n), by deleting the words "Mauritius Telecommunications Authority" and replacing them by the words "ICT Authority".

5. Section 6 of principal Act amended

Section 6 of the principal Act is amended in paragraph (e) by deleting the words "Mauritius Telecommunications Authority" and replacing them by the words "ICT Authority".

6. Section 19 of principal Act amended

Section 19 of the principal Act is amended in subsection (4) by deleting the words "Mauritius Telecommunications Authority" and replacing them by the words "ICT Authority".

7. Section 22 of principal Act amended

Section 22 of the principal Act is amended -

- (a) in subsection (1) by deleting the figure "(1)"; and
- (b) by deleting subsection (2).

8. New Section 22A added

The principal Act is amended by inserting immediately after section 22 the following new section -

22A. Renewal of Licence

(1) A licensee who wishes to renew his licence shall, not later than 3 months before the expiry of the licence, apply in writing to the Authority for the renewal of his licence.

(2) The Authority may, for the purpose of deciding whether or not to renew the licence, require from the applicant such information as it considers necessary.

(3) Where the Authority is satisfied that the applicant is not disqualified on one of the grounds set out in section 19(3), it shall renew the licence subject to such additional terms and conditions as it deems fit to impose and on payment of the prescribed fee.

9. Section 24 of principal Act repealed and replaced

Section 24 of the principal Act is repealed and replaced by the following new section -

24. Variation of licence

A licensee may make a written application to the Authority to vary the conditions of his licence and the Authority may accede to the request subject to such conditions as it thinks fit to impose.

10. Section 25 of principal Act repealed

Section 25 of the principal Act is repealed.

11. Section 27 of principal Act amended

Section 27 of the principal Act is amended by adding after subsection (2), the following new subsection –

(3) Notwithstanding any provision of this Act or any regulations made under this Act, no fee shall be payable in respect of any licence specified in the First Schedule and issued to the Corporation by virtue of this section.

12. Heading of Part V of principal Act deleted and replaced

The principal Act is amended by deleting the heading Part v and replacing it by the following new heading –

PART V – STANDARD – SETTING AND ENFORCEMENT PROVISIONS

13. Section 30 of principal Act repealed and replaced

Section 30 of the principal Act is repealed and replaced by the following new section -

30. Broadcasting Compliance Committee

(1) There is established for the purposes of this Act a Broadcasting Compliance Committee.

(2) The Committee shall consist of -

- (a) a Chairperson and a Vice-Chairperson who shall be law practitioners of not less than 10 years standing; and
- (b) not less than 2, nor more than 6, members having experience in the field of finance, law, economics, information technology, psychology or broadcasting.

(3) The Chairperson, Vice-Chairperson and members of the Committee shall be appointed, on a full time or part time basis, by the Minister on such terms and conditions as he thinks fit.

- (4) (a) The hearing of any matter by the Committee shall take place before the Chairperson or Vice-Chairperson and two members.
- (b) The Chairperson or Vice-Chairperson shall preside over every hearing of the Committee.
- (c) The decision of the Committee shall be the unanimous decision of the members, or the majority of the members.

(5) The Committee shall have power to hear and determine any complaint -

- (a) of a breach by a licensee or the Corporation of the code of conduct specified in the Second Schedule, or the code of ethics specified in section 29(4), or the code of advertising practice specified in section 29(5);
- (b) of a contravention by a licensee or the Corporation of any condition attached to his licence;
- (c) that a licensee or the Corporation has broadcast a programme which vilifies or severely ridicules a person or group of persons on ground of age, religion, gender, sexual orientation or preference, physical or mental disability;
- (d) in relation to the broadcast of a programme which disparages a person in any office, calling, trade or business held or carried on by him at the time of the publication;
- (e) of unjust or unfair treatment or likelihood of unjust or unfair treatment in a broadcast programme;
- (f) of unwarranted infringement or likelihood of unwarranted infringement of privacy in, or in connection with, the obtaining of material included in a broadcast programme.

- (6) (a) The Committee may investigate and determine any matter referred to it in subsection (5) on its own initiative, or upon a complaint received in conformity to paragraph (b).
- (b) No complaint shall be considered unless it is -
- (i) made in writing by a person who provides his name and address;
 - (ii) made, where the person affected has passed away, within 6 months from the date of the death of that person.
- (7) A complaint shall not be considered where -
- (a) it is of a frivolous or vexatious nature;
 - (b) more than 6 months have lapsed from the date of the broadcast.
- (8) When conducting an investigation under this section, the Committee shall afford a hearing to every interested person and, where appropriate, the Authority.
- (9) For the purposes of a hearing, the Committee shall, subject to the provisions of this Act, establish its own procedures.
- (10) The Committee may, for the purposes of a hearing -
- (a) summon any person to attend a hearing, give evidence, or produce any document, recording, or other article of evidence; and
 - (b) administer an oath.
- (11) The Committee may hold its proceedings in private where the interests of public morality, defence, public safety, public order or the privacy of the persons concerned in the proceedings, or the welfare of persons under the age of 18, so require.
- (12) The Committee may, following an investigation carried out under subsection (6) -

- (a) order the licensee or the Corporation to -
- (i) publish or broadcast in such manner as the Committee thinks fit, a summary of the complaint and any decision of the Committee thereon;
 - (ii) pay to the Authority a financial penalty not exceeding 100,000 rupees or such other amount as may be prescribed;
 - (iii) take such remedial measures as it deems appropriate to bring an end to a prohibited conduct referred to under subsection (5), or to prevent the recurrence of such prohibited conduct; and
- (b) issue such directions to the licensee or the Corporation which shall comply with those directions in accordance with the terms and conditions imposed by the Committee.

(13) Where proceedings are pending before the Committee and the Committee considers that it is necessary for it to take an interim measure as a matter of urgency for the purpose of -

- (i) preventing serious and irreparable damage to a particular person or a category of persons; or
- (ii) protecting public interest,

the Committee may issue such direction as it considers appropriate for that purpose.

14. New sections 30A and 30B added

The principal Act is amended by inserting immediately after section 30 the following new sections -

30A. Revocation and suspension of licence

(1) Subject to subsection (2), the Committee may revoke or suspend a licence where it is satisfied that the licensee -

- (a) has failed to operate within 6 months of the issue of the licence, or within such additional period as may be allowed by the Authority;
 - (b) has ceased his operation under his licence;
 - (c) has given information to the Authority which is false or misleading in a material particular;
 - (d) has failed to comply with an order or a direction issued under section 30(12)(b);
 - (e) no longer satisfies any one of the conditions of the licence;
 - (f) has contravened any provisions of this Act or any regulations made thereunder.
- (2) The Committee shall not suspend or revoke a licence, unless -
- (a) written notice of the intention of the Committee, together with the reasons therefor, to revoke or suspend the licence has been communicated to the licensee; and
 - (b) the licensee has had an opportunity to make representations to the Committee as to why the licence should not be suspended or revoked.

30B. Appeal

- (1) Any person aggrieved by a decision of the Committee -
- (a) under section 30(12) or section 30A may appeal to the Supreme Court by way of judicial review; or
 - (b) under subsection 30(13) may appeal to the Judge in Chambers within 21 days of the date of such decision.
- (2) An appeal under subsection (1)(b) shall be by notice with summons, setting down the grounds of appeal and served on the opposite party.

(3) An appeal under subsection (1)(a) or (b) shall not have for effect a stay of the execution of the decision of the Committee, unless the Supreme Court, or the Judge in Chambers, as the case may be, orders otherwise.

15. Section 31 of principal Act amended

Section 31 of the principal Act is amended by deleting the words "Complaints Committee" and replacing them by the word "Committee".

16. Section 32 of principal Act amended

Section 32 of the principal Act is amended by deleting the words "Complaints Committee" wherever they appear and replacing them by the word "Committee".

17. Section 33 of principal Act amended

Section 33 of the principal Act is amended by deleting the words "Complaints Committee" wherever they appear and replacing them by the word "Committee".

18. Section 36 of principal Act amended

Section 36 of the principal Act is amended in subsection (a) by deleting the words "Complaints Committee" and replacing them by the word "Committee".

19. First Schedule to principal Act amended

The First Schedule to the principal Act is amended in Part II, in item 1, by deleting the words "To establish and operate a private television broadcasting service" and replacing them by "To establish and operate a television broadcasting service".

20. Third Schedule to principal Act amended

The Third Schedule to the principal Act is amended by deleting the words "Complaints Committee" and replacing them by the words "Broadcasting Compliance Committee".

21. Transitional provisions

(1) Every proceeding for the suspension or revocation of a licence under the repealed sections 24 and 25 shall be continued and completed as if this Act had not been passed.

(2) The appointments of the Chairperson and members of the Complaints Committee under the repealed section 30 shall terminate on the coming into operation of section 12 of this Act and they shall not be entitled to any compensation for such termination of appointment.

(3) Any proceedings commenced before the Complaints Committee under the repealed section 30 shall continue before, and be determined by, the Broadcasting Compliance Committee established under this Act.

(4) The Minister may give direction to the Authority and the Committee for the doing of such acts and things, as he deems appropriate, for the smooth transition to the operation of this Act.

22. Commencement

(1) Subject to subsection (2), this Act shall come into operation on a day to be fixed by Proclamation.

(2) Different dates may be fixed for the coming into operation of different sections of this Act.

My Ref: AG/

(30)
267

10 November 2005

Secretary to Cabinet
& Head of the Civil Service
Prime Minister's Office
New Treasury Building
PORT LOUIS

Dear Sir,

Re. The Criminal Code (Amendment) Bill and
The Independent Broadcasting Authority (Amendment) Bill

3. In order to cover all aspects of the law, the Independent Broadcasting Authority Act is also being amended to create a new independent compliance institution called the Broadcasting Compliance Committee that shall have enhanced powers generally to take remedial measures and to order payment of administrative fines in cases where there has been breaches of broadcasting licences, code of conduct, code of ethics and code of advertising practice as well as unfair treatment, infringement of privacy vilification and disparaging of people.

4. Section 4 of the Act is being amended so as to broaden the objects of the Independent Broadcasting Authority by specifically entrusting it the duty to ensure that broadcasting services do not broadcast any programme likely to lead to disharmony or feelings of enmity, hatred or ill-will between religious and racial groups or communities.

Yours faithfully,

(sd) S. Boolell
Parliamentary Counsel
for Solicitor-General

