



GENERAL NOTICE NO. 11/2022

DECISION IN TERMS OF SECTION 32 OF THE ESWATINI COMMUNICATIONS COMMISSION ACT, 2013 ON:

BROADCASTING (CONTENT) GUIDELINES 2022.

1. BACKGROUND AND INTRODUCTION

1.1 One of the Functions of the Commission, in terms of Section 6(c) of the Eswatini Communications Act, 2013, is to regulate and supervise the provision of radio and television broadcasting services and the content that forms part of those services.

1.2 In line with the mandate entrusted upon the Commission by the Act, to regulate and supervise the broadcasting sector, the Commission hereby publishes its Decision to issue Broadcasting (Content) Guidelines 2022, in terms of Section 38 (b), which Guidelines shall be adopted as a regulatory instrument to guide the broadcasting sector.

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1. Mandate of the Commission

Section 6(c) of the Eswatini Communication Commission Act, 2013, provides for the Commission to regulate and supervise the provision of radio and television broadcasting services and the content that forms part of those services.

2. Power to Issue Guidelines

These Guidelines are issued in accordance with Section 38 of the Eswatini Communications Commission Act, 2013.

3. Citation and Commencement

- (1) These Guidelines may be cited as The Broadcasting (Content) Guidelines, 2022.
- (2) These Guidelines shall come into force on the date of publication on the Commission's website.

4. Objectives

- (1) To provide regulatory guidance on content broadcasting to ensure high-quality broadcasting services in Eswatini.
- (2) To enhance the Broadcasting Guidelines, 2017, with regards to content regulation as spelt out in the Broadcasting Guidelines.

5. Application

These Guidelines shall apply to all broadcasters and content service providers.

6. Interpretation

(1) In these Guidelines, unless the context otherwise requires –

“Act” means the Eswatini Communications Commission Act, 2013;

“Advertise” means to broadcast any item in return for payment or other valuable consideration to a broadcaster or content service provider with the intention of—

(a) selling to a viewer or listener, any product or service;

(b) convincing a viewer or listener of a belief or course of action; or

(c) promoting a product, service, belief, course of action, person or organisation;

“Broadcasters” means licensed broadcasting service providers

“Broadcasting Licence” means a licence issued by the Commission to a licensee to provide broadcasting services or any licence that may be determined by the Commission;

“Broadcast Market” means the area, specified in the broadcasting licence by the Commission, within which a licensee is licensed to operate;

“Content” means information in the form of speech or other sound, data, text or images, whether still or moving except where transmitted in private communications;

“Content Services” means Services offered for speech or other sound, data, text or images whether still or moving except those transmitted as private communication.

“Content Service Provider” means a licenced service provider on a digital or analogue broadcasting platform who develops and/or aggregates content offering whether it is in the form of an audio or video or data service and delivers it to a signal distributor for broadcasting or through the internet.

“Child ”means, notwithstanding any other law to the contrary, a person under the age of eighteen (18) years;

“Commission” means Eswatini Communications Commission, established under the Eswatini Communications Commission Act, 2013;

“Conditional Access System” means a technical measure or arrangement whereby access to a protected radio or television broadcasting service in an intelligible form is made conditional upon subscription or other form of prior individual authorisation;

“Disaster” means a serious disruption of the functioning of the society causing widespread human, material or environmental damage and losses which exceeds the ability of the affected community to cope using their own resources;

“Infomercial” means any advertising broadcast in visual or audio form, lasting for more than 60 seconds which may contain demonstrations of the use of the product or service advertised, and includes direct offers to the public in return for payment, and results in the broadcaster receiving payment in monetary terms or otherwise;

“Licensee” means holder of a broadcasting licence or a content service provider licence;

“Local Content” means the total of all television or radio programmes, which meet at least five (5) of the following conditions:

- (a) the production is made in either Eswatini’s indigenous or official languages;
- (b) All, or a majority, of the production and post production was done in Eswatinii;
- (c) the content deals with issues that are unique and relevant to Eswatini audiences;
- (d) at least 60% of the actors, leading cast, major supporting cast, major technical crew, and production crew members are Emaswati;
- (e) the location of shooting, in case of audio-visual programmes or performance was wholly or partly in Eswatini;

(f) the author(s) of the program are Emaswati (whether or not the program is produced in conjunction with a co-producer, an executive producer or director who is not Swati); and

(g) the production company producing the program should be based in Eswatini employing more than 60% of Emaswati, and be wholly owned by Emaswati, or have at least 50% Swati ownership;

"Election Period" means any period of general, local or parliamentary election, and on the day of such election and ending on the day the poll is to be finalised and closed;

"Programme" means a body of live or recorded material consisting of images, sounds or both embodied in signals emitted for the purpose of ultimate broadcasting;

"Programme Segment" means a programme which, in audio-visual sense, presents one (1) whole unit, with a beginning and end, clearly separated from other segments and content;

"Public Broadcasting Service" means -

(a) a broadcasting service provided by a person who receives funding from the State; or

(b) a broadcasting service provided by any other statutory body

"Re-broadcasting" means the simultaneous or subsequent broadcasting by one broadcasting organization of the broadcasts of another broadcasting organization;

"Sponsored Programme" means a programme which all or part of its costs are paid by a sponsor, with a view to promoting that sponsor's, or another sponsor's name, product or service;

"Station Programming Format" means an arrangement of programmes which are presented by a broadcasting station;

"Subscriber" means a person who, in relation to subscription television and or radio broadcasts, has entered into an agreement with a provider of subscription radio or television services to pay a fee to access the content;

“Subscription Broadcasting Services” includes, among other services, cable broadcasting, and multi-channel satellite distribution services provided to an end user upon the payment of a fee;

“Temporal Licence” means an authorisation granted by the Commission for the provision of broadcasting services, for a short duration on such terms and conditions as determined by the Commission;

“Watershed Period” is the period after 22:00hrs up to 05:00hrs that is observed by licensees as the period during which television programmes that might be unsuitable for children may be broadcast.

7. Obligations Relating to Broadcasting Services

(1) All broadcasters shall –

- a) annually file with the Commission an up to date station identity;
- b) ensure that their station identity is unique and does not cause confusion;
- c) reveal their station’s identity at intervals of at least 30 minutes during the period which broadcasts are made from that station; and
- d) state, at least twice within a period of four hours, all the frequencies or channel number

(2) In the case of free-to-air broadcasting services the licensee shall provide local content as follows: –

- a) Public broadcast licensee to broadcast a minimum of sixty (60) percent local content;
- b) Commercial Broadcast licensees are required to broadcast a minimum of thirty (30) percent local content; and
- c) Community Broadcasters shall ensure that seventy (70) percent of the content aired is content covering community issues and needs.

- (3) The licensees shall ensure local content requirements are met as follows;
- a) Public Broadcast licensees shall ensure that seventy (70) per cent of local content aired by the public broadcaster shall be produced and supplied to the public broadcaster by Independent Local Producers.
 - b) Commercial Broadcast licensees shall ensure that forty (40) per cent of local content aired by the Commercial Broadcast licensees shall be produced and supplied to the licensees by Independent Local Producers.
- (4) A licensee must have policies dealing with programming matters that include, amongst others:
- a) Mechanisms for community participation for community broadcasters;
 - b) Programming format;
 - c) Production standards;
 - d) Policies defined in the Broadcasting Guidelines, 2017; and
 - e) The policies mentioned above shall be filed with Commission for approval.
- (5) A licensee shall adhere to its programming format and may be changed after approval by the Commission.

8. General Obligations

- (1) A licensee shall ensure that no broadcasts by its station -
- a) contains the use of offensive language, including profanity, inappropriate language and blasphemy;
 - b) presents sexual matters in an explicit and offensive manner;
 - c) glorifies violence or depicts violence in an offensive manner;
 - d) is likely to incite, violence, perpetuate hatred, vilify any person or section of the community, on account of race, ethnicity,

nationality, gender, sexual preference, age, disability, religion or culture of that person or section of the community.

- (2) A licensee shall ensure that it has the necessary equipment for preventing any of the above during live broadcast.

9. Protection of Children

- (1) A licensee shall –

- a) ensure that due care is exercised in order to avoid content that may disturb and be harmful to children, this includes, but is not limited to content, that has explicit language, explicit sexual or violent material, sexual violence, music with sexually explicit lyrics or lyrics which depict violence, and imitable acts;
- b) not broadcast programmes with the content specified in paragraph (a) before the watershed period;
- c) request for permission from the child's parents or guardian before conducting an interview with a child;
- d) ensure that reasonable care is exercised in order to avoid content which may disturb or be harmful to children when the licensee broadcasts programmes at times when a large number of children may be likely to be watching or listening to radio or television programmes;
- e) exercise due care in the depiction of violence in children's programming, by ensuring the following:
 - i. In children's programming portrayed by real-life characters, violence may, whether physical, verbal or emotional, only be portrayed when it is essential to the development of a character and plot;
 - ii. Animated programming for children, shall not contain violence as its central theme, and shall not incite dangerous imitation;

- iii. Programming for children shall not contain realistic scenes of violence which may create the impression that violence is the preferred or only method to resolve conflict between individuals;
 - iv. Any realistic depictions of violence must portray the consequences of that violence to its victims and its perpetrators; and
 - v. Programming for children must not contain frightening or otherwise excessive effects not required by the story line.
- (2) Programming for children must with reasonable care deal with themes which could threaten children's sense of security when portraying, for example, domestic conflict, death, crime or the use of drugs or alcohol;
 - (3) Programming for children must with reasonable care deal with themes which could influence children to imitate acts which they see on screen or hear about, such as the use of plastic bags as toys, the use of matches or the use of dangerous household objects as toys;
 - (4) Offensive language, including profanity and other religiously incentive material, must not be broadcast in programmes especially designed for children; and
 - (5) No offensive language should be used before the watershed period on television or radio or at times when a large number of children are likely to be watching or listening to radio or television programmes.

10. News Reporting

- (1) A broadcasting licensee shall–
 - a) Report news in a factually accurate, impartial and unbiased manner; and
 - b) Present current affairs in a balanced, clear, factual, accurate and impartial manner.

- (2) A licensee shall ensure that news and information are broadcast and presented in a balanced manner, without prejudice or negligent departure from facts through distortion, exaggeration, misrepresentation and material omissions.
- (3) A broadcasting licensee may present as fact only such news as may reasonably be true, having reasonable regard to the source of the news, and that fact must be broadcast fairly with reasonable regard to context and importance.
- (4) A broadcasting licensee shall not broadcast any report where there are insufficient facts to assure its accuracy and it is not possible to verify the accuracy of the report before it is broadcast.
- (5) Where a report or an account by a broadcasting licensee –
 - a) is not based on fact; or
 - b) is founded on opinion, supposition, rumours or allegations, such account must be presented in such a manner as to clearly indicate that is the case.
- (6) Where it subsequently appears that a broadcasting report or account was incorrect in a material respect, the broadcasting licensee must make reasonable efforts to correct or clarify such incorrectness within a reasonable time and the rectification or clarification –
 - a) must be made with an appropriate degree of prominence to attract attention
 - b) may be made during a later episode of the relevant broadcast or a comparable broadcast; or
 - c) maybe made on the broadcasting licensee's or relevant programme's website, home page or main website, as appropriate; or
 - d) may be made in any other way which is appropriate under the circumstances.

11. Correction of Errors in Reports

- (1) Where it appears that a comment was incorrect or differed in a material respect from what was previously broadcast by a broadcasting licensee, the broadcasting licensee must broadcast or publish, in the manner set out in these Guidelines, a counter-version presented by a person or organisation affected by and objecting against any such incorrect or different fact in any programme transmitted by the broadcasting licensee.
- (2) Notwithstanding sub-Guideline 11 (1), a broadcasting licensee is not obligated to transmit a counter-version in the event where –
 - a) the person or organisation concerned does not have a direct interest in the transmission of the counter-version; or
 - b) the counter-version is not of reasonable length, and in particular, if the counter- version is substantially longer than the part of the broadcast which dealt with the false assertion of fact.
- (3) The counter-version referred to in sub-Guideline 11 (1) must –
 - a) be limited to a factual account;
 - b) not contain any material which may reasonably be anticipated to expose the broadcasting licensee to legal action if that material were to be broadcast;
 - c) be in writing;
 - d) specify the programme and the assertions to which the objection is raised; and
 - e) be signed by the person affected or, in the case of an organisation, by a duly authorised representative of that organisation.
- (4) The person or organisation affected is not entitled to insist on the broadcasting or publishing of a counter-version as contemplated in sub-Guideline 11 (1) if the counter-version is presented to the

- broadcasting licensee after the expiry of a period of fifteen (15 days) from the date of broadcast of the apparent incorrect or different fact.
- (5) The broadcasting licensee must, subject to sub-Guideline 11 (2) and 11 (4):
- a) broadcast or publish the counter-version without any omissions and interruptions; and
 - b) broadcast or publish the counter-version free of charge.
- (6) A broadcasting licensee must, immediately upon receipt of the counter-version referred to in sub-Guideline 11 (1) –
- a) inform the Commission about that fact; and
 - b) keep and store the programme objected to and the counter-version, until the broadcasting licensee receives a notice to the contrary from the Commission or for a period of at least twelve (12) months, whichever period expires first.
- (7) If a broadcasting licensee makes a rectification or clarification in the manner set out in this Guideline within the specified timeframe, such licensee will not be in breach of sub-Guideline 11 (4).

12. Reporting on Sensitive Matters

- (1) A broadcasting licensee must ensure, in so far as is practical or reasonable, when reporting on a sensitive matter that a balanced and reasonable range of significant views and opinions is reported, either within a single programme or within a series of programmes.
- (2) A broadcasting licensee must ensure, in so far as is practical or reasonable, when broadcasting a sensitive matter during phone-in programmes, that a balanced and reasonable range of significant views and opinions is represented.
- (3) A person or an organisation whose views have been characterised as sensitive during any programme and who makes any representations, within a reasonable time, to the broadcasting licensee responsible for

the programme that such person or organisation is aggrieved, must, in so far as is practical or reasonable, be offered an opportunity by the broadcasting licensee to reply to such criticism or comment.

- (4) A licensee shall endeavour to ensure that when broadcasting sensitive matters of public interest during live broadcasts;
- a) a diverse range of views and opinions are represented;
 - b) a person or organisation whose views on any sensitive matters of public interest have been criticised during a broadcast, and who wishes to reply to such criticism is given an opportunity by the licensee to reply to such criticism within a reasonable time; and
 - c) a reply to criticism under subparagraph 12(4)(b) is given a similar degree of prominence and shall be broadcast on a similar time-slot, as soon as is reasonably possible.

13. Elections Period

- (1) During any period of general, local or parliamentary election, and on the day of such election and ending on the day the poll is to be taken every licensee shall:-
- a) comply with such guidelines as may be issued by the Elections and Boundaries Commission.
 - b) Ensure equitable access to all concerned individuals and also ensure that no one with relations to those nominated is given unfair advantages to campaign for their associates.
 - c) ensure that the employees of a licensee who wish to be candidates for any elective position(s) resign from their employment with the licensee during the polling period.

14. Conduct of interviews

- (1) A licensee shall ensure that any person who is to be interviewed in any of the licensee's broadcast is -

- a) advised of the subject of the interview; and
 - b) informed, before the interview, to determine whether the interview is to be recorded or broadcast live.
- (2) A licensee shall exercise due care in conducting interviews with bereaved persons, survivors of traumatic incidents or witnesses thereof.
 - (3) A story will not be put on hold/spiked if an interviewee who is a subject matter in the story declines to comment, provided there is reasonable proof that the interviewee's comment was solicited but they omitted to comment.
 - (4) The licensee is not obligated to reveal sources unless so ordered by the courts.

15. Commentaries

- (1) All licensees will be guided primarily by these Guidelines on matters concerning commentaries on broadcasting and programming.
- (2) A licensee shall ensure that any commentaries that are broadcast by a licensee, whether as comments made by the licensee or by any person invited by a licensee, are presented in a manner that clearly indicates that they are based on facts.
- (3) A broadcasting licensee may broadcast comments and criticism of any actions or events of public importance.
- (4) Comments by a broadcasting licensee must be:
 - a) honest expressions of opinions;
 - b) presented in such a manner that it appears clearly to be commentary; and
 - c) on facts truly stated or fairly indicated and referenced.
- (5) Where a person stated that he or she is not available, or where a person could not reasonably be reached, for comments, that fact

must be stated by the licensee in the relevant programme including the effort and manner employed to try and reach the person.

16. Sexual Offences

- (1) Section 194 of the Sexual Offences and Domestic Violence Act, 2018, shall take precedence, where these Guidelines contradict the Act, the Act shall be used.
- (2) Unless prior valid consent from the victim concerned is obtained, or in the event of the victim being a child, also the consent of the victim's guardian, a broadcasting licensee may not divulge in a broadcast, whether as part of the news or not, the identity of -
 - a) Rape victims;
 - b) victims of gender based violence;
 - c) other victims of sexual violence; or
 - d) children implicated in criminal cases
- (3) A broadcasting licensee must advise its audience in advance of -
 - a) scenes or reporting of extraordinary violence, or graphic reporting on delicate subject matters (for example, of a sexual nature); or
 - b) Court action related to sexual assault, and must pay particular attention to this duty during afternoon or early evening newscasts and updates.
- (4) A licensee shall -
 - a) not disclose, in a broadcast, the identity of a victim of a sexual offence.
 - b) Avoid the use of unnecessary or repetitive detail when broadcasting the circumstances of a sexual offence.

17. Consent to Broadcast

- (1) A licensee shall not broadcast any information acquired from a person without that person's consent, unless the information so acquired is

essential to establish the credibility and authority of a source, or where the information is clearly in the public interest.

- (2) This clause shall not preclude the protection of children under clause 9 (c).

18. Audience Advisory Assistance

- (1) In order to assist audiences in choosing television programmes, a television broadcasting licensee must -
- a) provide advisory assistance which, when applicable, must include guidelines as to age, where such programmes contain violence, sex, nudity or offensive language;
 - b) provide for audio and visual advisory at the beginning of the programme highlighting the notes of advisory;
 - c) show such advisory assistance on the screen for a minimum of thirty (30) seconds after each advertisement or break;
 - d) where the frequency of the subject matters, or any one or some of them, is high, show a continuous advisory assistance, irrespective whether the programme is broadcast before or after the watershed period.
- (2) A television broadcasting licensee must use the following visual advisory assistance age system:
- a) ALL = Suitable for general family viewing;
 - b) PG = Parental guidance advised;
 - c) 7-9 PG = Approved for viewing by persons of 7 - 9 years of age;
 - d) 10-12 PG = Approved for viewing by persons of 10 - 12 years of age;
 - e) 13 = Approved for viewing by persons over 13 years of age;
 - f) 16 = Approved for viewing by persons over 16 years of age; and
 - g) 18 = Approved for viewing by persons over 18 years of age

(3) A television broadcasting licensee must use the following warning symbols in accordance with the relevant content:

a) CT. = Criminal Technics

Content may contain scenes of strong impact criminal techniques

b) D. = Substance Abuse

Content may contain strong impact scenes of substance abuse

c) H. = Horror

Content may contain scenes of strong impact horror

d) IAT. Imitative Acts and Techniques –

Content may contain instances of very strong impact imitative acts and techniques

e) L.= Language

Content may contain instances of very strong language

f) N. = Nudity

Content may contain scenes of strong impact nudity

g) P. = Prejudice

Content may contain scenes or language of prejudice of strong impact

h) PPS. = Photo Pattern Sensitivity

Content may contain scenes which may trigger seizures for people with epilepsy

i) S.= Sexual Conduct

Content may contain occurrences of strong or very strong sexual conduct, but no explicit sexual conduct. Verbal reference or visual presentation of sexual conduct;

j) SV.= Sexual Violence

Content may contain occurrences of actual moderate to strong sexual violence if justified by context but no explicit sexual violence

k) V. = Violence

Content may contain strong to very strong violence. Verbal reference or visual presentation of violence

- (4) A television broadcasting licensee must ensure that an audio advisory assistance accompany the broadcast of a film with an age restriction of 18 before the commencement of the relevant programme.
- (5) These Guidelines do not apply to a Subscription Television Broadcasting Licensee where such licensee does not have editorial control over the contents of a channel or programme and cannot, within reasonable means, effect the audience advisory assistance required under these Guidelines, subject thereto that such Subscription Television Broadcasting Licensee must –
- a) classify the programmes it intends to broadcast;
 - b) with regard to such classification, indicate appropriate age restrictions for viewing or listening to a programme or indicate the programme as family viewing;
 - c) indicate whether a programme contains criminal technics, substance abuse, horror, nudity, prejudice, sexual conduct, sexual violence, violence or offensive language;
 - d) provide clear and consistent information to its audience on programme classification in order to enable its audience to select the programmes they do not wish to view or listen or which they do not wish their children to view or hear.
- (6) A Subscription Television Broadcasting Licensee must implement adequate measures to enable a subscriber to block a programme or certain levels of undesirable material, based on the classification of the programme, or a channel, included in its services (i.e. parental or viewer control).

19. Programme Sponsorship

- (1) Sponsorship shall be allowed for entire programmes or parts of a programme.
- (2) Sponsorship of a channel is prohibited.
- (3) Licensees shall not obtain or accept any programme sponsorship from any person in respect of any news or current affairs programme.
- (4) Sponsorship may be allowed for specialist reports, e.g. financial news, weather, traffic and sports which constitutes part of a news programme broadcast
- (5) Licensees shall ensure that sponsorship of an informative programme does not compromise the accuracy and impartiality of the programme's contents.
- (6) Licensees shall not unreasonably discriminate against or favour a particular sponsor.
- (7) Licensees shall acknowledge the sponsorship of a programme immediately before and after the programme is broadcasted, and identify any connection between the programme's subject-matter and the sponsor's commercial activities.
- (8) Sponsorship conditions shall not interfere with the integrity of the programmes. However, commercial breaks may be allowed in such programmes.
- (9) Editorial responsibility for sponsored programmes remains with the broadcaster.
- (10) Sponsorship of a programme or part of a programme by a promoter of a product or service shall also be considered as advertising.
- (11) Any depiction of, or referral to, the name, logo, product or service of a person who provides a programme sponsorship to a broadcaster, whether before, during or after the broadcast of the relevant programme, shall be subordinate to the content of the

programme material to ensure that undue prominence is not given to that name, logo, product or service.

- (12) Product placement in programming other than news and current affairs shall be subordinate to the content of the programme material.
- (13) No broadcaster shall accept any programme sponsorship from any person who is prohibited by any legislation.
- (14) In all cases of programme sponsorship, the broadcaster shall, before and after the transmission of the sponsored programme, state clearly the nature of the sponsor's association with the relevant sponsored programme. Preference should be given to descriptions such as "sponsored by" or "in association with" as opposed to descriptions such as "brought to you by" or "with compliments of".

20. Infomercials

- (1) A Commercial Broadcaster shall not broadcast an infomercial -
 - a) for a period exceeding three and half hours of the performance period in any day; or
 - b) that is more than one and half hours during prime-time.
- (2) A Public Service Broadcaster may broadcast up to sixty (60) minutes of infomercials of the performance period in any day but should not be broadcast during news and current affairs programs.
- (3) A Community Broadcaster may broadcast up to thirty (30) minutes of infomercials of the performance period in any day but should not be broadcast during news and current affairs programs.
- (4) A licensee shall not broadcast an infomercial during any break in the transmission of a children's programme.
- (5) A licensee shall ensure, through visual or audio form, that the broadcast of any infomercial is distinguishable from any broadcast programme material.

- (6) A licensee shall ensure that all infomercials that are broadcast by its station are lawful, honest, decent and conform with the principles of fair competition.
- (7) On special occasions, such as trade fairs, which promotes business activities in the country, the Commission may grant approval for Public Services Broadcasters and Community Broadcasters upon written request to produce and broadcast infomercials which are not more than fifteen (15) minutes each for up to two (2) hours a day during the cause of the occasion or fair.

21. Payment for Information

- (1) A licensee shall not knowingly pay any person in order to obtain information.

22. Advertisements

- (1) Unacceptable Advertising:
 - a) No advertisement shall cause unwarranted anxiety or fear.
 - b) No Advertisements shall cause serious or widespread offence against generally accepted moral, social or cultural standards.
 - c) No advertisement shall promote stereotypes or in any way degrade any individual or group in society, religion, faith and philosophies of life.
 - d) It is unethical and not allowed for certain professions to advertise inclusive of their institutions. These are Physicians, Lawyers, Dentists, Osteopaths, Chiropractors, Herbalists, Traditional Doctors, Occultists, Optometrists, Priests, Prophets and others of a similar nature.
 - e) Witchcraft, fortune-telling, astrology, phrenology and other forms of occultism, such as Spiritism, mind or character reading, palm reading, numerology etc.is prohibited.

- f) Cemeteries, undertaker services, mortuaries, morticians, coffin manufactures and similar products and services associated with burial, which would be deemed to be of a morbid nature is prohibited.
 - g) Advertising of tobacco products is prohibited including electronic cigarettes.
- (2) A licensee shall ensure that it only broadcasts advertisements that are lawful, honest, decent and conform with the principles of fair competition.
 - (3) Advertisements must not condone or encourage discriminatory behaviour or treatment and must also not prejudice respect for human dignity.
 - (4) A licensee shall ensure that advertisements broadcast by its station do not:
 - a) contain any descriptions, claims or other material which may, directly or by implication, mislead members of the public in relation to the product or service advertised, or about its suitability for the purpose recommended; and
 - b) unfairly attack or discredit, directly or by implication, any other advertisers, products or advertisements.
 - (5) A licensee shall, before broadcasting an advertisement, ensure that any descriptions or claims in the advertisement have been adequately substantiated by the advertiser.
 - (6) A licensee shall not unreasonably discriminate against or favour any advertiser.
 - (7) A licensee shall exercise responsible judgment when scheduling advertisements that may be unsuitable for children during periods when children are expected to be watching or listening to programmes.
 - (8) A licensee shall ensure that -

- a) any advertising breaks are clearly distinguishable from broadcast programmes; and
- b) its presenters, when reading advertisements, make a clear distinction between the programming material and the advertisements they deliver.

23. Tariffs

- (1) The Commission shall approve tariffs for broadcasting services before being put into effect by any licensee.

24. Watershed Period

- (1) A television broadcasting licensee shall broadcast programmes containing the following scenes with appropriate advisories and warnings, as defined in Guideline 18 above, only during the watershed period:-
 - a) explicit violence;
 - b) sexual conduct;
 - c) nudity; and
 - d) grossly offensive language
- (2) A licensee shall ensure that -
 - a) content which depicts or contains scenes that are rated as adult, or are of the language intended for adult audiences are aired during the watershed period (22:00PM – 5:00AM); and
 - b) all programmes broadcast before the watershed period are suitable for family audiences and the transition from family oriented to a more adult programming during the watershed period is gradual.
- (3) Some programmes broadcast before the watershed period may not be suitable for children and a broadcasting licensee must provide sufficient information, in terms of regular scheduling patterns or audience advisory assistance, to assist parents and *de facto* or legal

guardians to make appropriate viewing or listening choices for children in their care.

25. Content for the Disabled

- (1) The Commission shall require broadcasters to take specific steps to promote the understanding and enjoyment of programmes transmitted through its stations by persons who are physically challenged and in particular, persons who are deaf or hard of hearing, or who are blind or partially sighted.
- (2) The Commission may prescribe the time and percentage of programmes targeting persons referred to in 25 (1) above, that shall be broadcast and this shall be specified in a Programme Code.
- (3) The Commission may prescribe the time and frequency of current affairs and new programmes targeting persons referred to in 25 (1) above; the Commission will stipulate the time in each respective licence issued.

26. Compliance to Broadcasting Code, 2020

- (1) Licensees shall be subject to the Broadcasting Code, 2020, prescribed by the Commission as well as Guidelines, Decision, Directives, Codes, Standards, Policies or any other legal framework.

27. Complaints Handling Procedure

- (1) Every broadcaster shall develop a procedure, for handling complaints from persons who may be aggrieved by its broadcasts.
- (2) The complaints handling procedure, shall, among other things cover the following -
 - a) Reference number for the complaint;
 - b) full name of the broadcaster as it appears in the licence as well as the broadcast station identity specific to different broadcast services offered;

- c) the physical, postal and email addresses where complaints can be sent;
 - d) the contact person authorized to receive and handle complaints;
 - e) the manner in which the complaints may be lodged including the applicable languages;
 - f) details which need to be submitted when lodging a complaint;
 - g) the need for the complainant to retain a copy of every correspondence exchanged between complainant and broadcaster; and
 - h) the manner in which the complaint shall be investigated and process of investigation.
- (3) In addition to the information under 27(2) the complaint handling procedure shall also include information -
- a) to listeners or viewers that the first opportunity to resolve a complaint should be given to the broadcaster to resolve the complaint;
 - b) relating to the timeframes for responding to the complainant, and resolving the complaint;
 - c) relating to how complaints from physically challenged and illiterate consumers who are not capable of providing complaints in writing, shall be addressed;
 - d) on the methods of recording and tracking of complaints, together with the associated responses;
 - e) on the duration of storage of records of complaints received and actions taken;
 - f) on the retention and production of recordings of any programme which is the subject matter of a complaint;
 - g) on the categories of complaints which the broadcaster is under no obligation to respond to or complaints considered frivolous,

- vexatious or an abuse of the complaint process or from complainants who choose to remain anonymous; and
- h) on any other matter as the Commission may from time to time prescribe.

28. Obligations of Licensees in Handling Complaints

- (1) A licensee shall -
- a) document its complaints handling procedure;
 - b) inform their listeners or viewers at least once a day of the existence of a complaints handling procedure and how they can lodge a complaint regarding the broadcast station;
 - c) not dispose of broadcast transcripts or recordings related to a complaint so long as it has not been summarily resolved either by the broadcaster, the Commission, the Tribunal or the High Court: Provided that the clause in the licence stipulating the minimum duration that a licensee shall retain a copy of recordings of broadcasts shall not apply to this subparagraph; and
 - d) Quarterly submit to the Commission a written report of all complaints received during the period and the manner in which they were addressed.

29. Approval of Complaints Handling Procedure

- (1) Every broadcaster shall, prior to the commencement of broadcasting services submit its Complaints Handling Procedure to the Commission for approval.
- (2) In the event that the Commission does not approve the complaints handling procedure submitted under 29(1), in part or in whole -

- a) the Commission shall specify the remedial measures the broadcaster should take in order to satisfy the Commission's requirements; and
 - b) the broadcaster shall within thirty (30) days of being notified of the disapproval, resubmit the revised complaints handling procedure for reconsideration by the Commission: Provided that in the interim, the Commission may require the broadcaster to handle any complaints submitted during that period in accordance with the procedure determined by the Commission.
- (3) A broadcaster shall, after approval, publish its Complaints Handling Procedure and avail it to any person who reasonably requests for such a procedure.

30. Escalating Complaints to the Commission

- (1) Where any person alleges that he has exhausted the broadcasters' complaints handling procedure and is not satisfied with the remedy offered or action taken, he may appeal to the Commission and such appeal shall be dealt with in accordance with the ESCCOM Consumer Protection Guidelines or such procedures as may be prescribed by the Commission from time to time.
- (2) The Commission may, on ex-officio, investigate a matter where in its view a broadcaster has breached the provisions of any legal or regulatory framework in force.
- (3) A broadcaster or the Commission shall not entertain a complaint or dispute lodged pursuant to a broadcast after ninety (90) days from the date when the material complained of was broadcast.

31. Public Notices of Emergencies or Public Disaster Announcements

- (1) Announcements during public emergencies and public disaster shall be made in accordance with Section 29 of the Disaster Management Act, 2006.

32. Violations

Any person who contravenes any provision of these Guidelines shall be dealt with in accordance with Section 42 of the ESCCOM Act.

33. Precedence

- (1) Where some provisions in relation to content conflict between the Broadcasting Guidelines, 2017 and Broadcasting (Content) Guidelines, 2022, the Broadcasting (content) Guidelines shall take precedence.