

Subscription Broadcasting Service

Directive N^o. 04/2009

*May, 2009
EBA*

Subscription Broadcasting Service

Whereas, providing service of foreign broadcast programs with payment to the society is an option of fulfilling the need of information, entertainment and education to the society;

Whereas, it is essential to follow up and control this broadcasting service option in the manner of transparency and accountability;

Whereas, it is necessary to issue the license to the applicants, who need to provide service of foreign broadcasting service to customer, by ascertaining, checking their competency;

Now, therefore, in accordance with article 47 of the Broadcasting Service Proclamation N^o533/2007 it is hereby issued.

Part One

General Provision

1. Short title

This directive may be cited as the "Subscription Broadcasting Service Directive N^o 04/2009"

2. Definitions

In this directive, unless the context requires otherwise:

1. "Subscription Broadcasting Service" means a foreign country broadcast transmission program service providing the society in agreement with licensee and user and giving a service by using the set device or password;

2. "Applicant" means juridical person who fills the application form and apply to the Authority to get license on providing service of foreign broadcast programs with payment to customers;
3. "Licensee" means a juridical person licensed in accordance with article 7 of this directive and the organization who got license from the Authority before;
4. "License Team" means a group of experts who registers the applicant of providing service of foreign broadcast programs with payment to customers to get license, examines the application and gives ideas for decision to the highest pertinent official, gives approved license and other related activities in accordance with this directive;
5. "Channel" means a unique frequency code through which the arranged motion picture, sound or program or both are transmitted;
6. "Additional channel accreditation" means an accreditation channel that the Authority gives when the licensee applies to provide service of additional program channel;
7. "Higher official" means the Authority's general director or deputy general director;
8. "Authority" means the Ethiopian broadcasting Authority;
9. "Board" means the Ethiopian Broadcasting Authority's Board;
10. "Proclamation" means the proclamation on Broadcasting service of 533/2007;
11. "Person" means any juridical or physical person.

Part Two
Issuance of License

3. Requirement of License

1. No person may undertake service of foreign broadcast programs with payment to customers with out obtaining a license from the authority;
2. An applicant who intends to obtain license service of foreign broadcast programs with payment to customers shall fill and submit the application form prepared by the Authority with supporting document.

4. Application form and supporting documents

1. The Authority shall prepare an application form including the following;
 - a. The applicant's name and address;
 - b. Types and numbers of channels with the intention of the transmission;
 - c. The system which the licensee provides service to the customers;
 - d. If the applicant is under operation before the issuance of this directive, the number of customers;
 - e. Other information related to the applicant.
2. The applicant shall submit the following documents with an application form.
 - a. Applicant's memorandum of association and article of association
 - b. Confirmed document that the applicant is established by an Ethiopian citizens;
 - c. The agreement document of the applicant and the foreign country broadcast service organization to provide the programs to the customers;
 - d. Project study of the service;
 - e. Other documents that the applicant may consider as necessary.

5. Submission of application and denial of application

1. Applicant who needs a license of providing service of foreign broadcast program with payment to customer can apply any time to the authority;
2. If the applicant organization:
 - a. Is not established by Ethiopians only;
 - b. Fails to produce project proposal with an application form;
 - c. Is a body that may not be entitled to a license as provided in article 23 of the proclamation will be rejected without going into detail screening.

6. Procedure of License Issuance

1. According to article 5 the license team checks the submitted application and submits the elaborated result and recommendation to higher official;
2. The higher official gives decision after examining the submitted recommendation;
3. An applicant, whose application has been accepted, pays the required license fee and is notified in writing to take the license;
4. The applicant, who paid the license fee and signed a document prepared by the Authority, can get the license according to the above sub article;
5. The applicant, who gets all acceptance letter of license, may be revoked unless the payment is made and the prepared document of the Authority is signed within one month of notification;
6. The applicant, who is denied a license, wants to know the reason of the denial of the license; the Authority will notify the reason in writing.

7. The license Conditions mentioned by the licensee

1. The major conditions which are mentioned in the application by the licensee can be taken as an obligation of the license;

2. On the basis of conditions mentioned in the application by the licensee, the Authority prepares the license document and makes the licensee sign on it.

Part Three

Licensee

8. Duties and Responsibilities of Licensee

1. Checking the transmitted programs that do not contradict with laws of the country and interest of the community;
2. Notifying tariff of service payment and change of any payment tariff description to the Authority every time;
3. Notifying the Authority the channel type, numbers and content of the programs transmitted to the customers;
4. Submitting the programs to the Authority which are provided to the customers without payment;
5. The service will be provided only according to the types of issued license;
6. The licensee shall be issued a license of additional channel from the Authority, if there is a need of providing programs in addition to the previous licensed channels;
7. The licensee should disclose the place of work and equipments which are used for operation in order to make convenient for the Authority's follow up and control mechanism;
8. Notifying the number of customers and agreement time to the Authority;
9. The licensee prohibits the customers not to provide the programs to public consumption according to the agreement of the licensee and the customer.

9. Validity period of License

1. The license which is given in accordance with this directive stays valid for five (5) years;
2. The license can be renewed in the agreement of the licensee and the Authority;
3. The requisition of license renewal shall be raised before six (6) month of validity period. If the requisition is not forwarded the Authority is not obliged to renew the license.

Part Four

Payment of application, license and annual fee

10. Amount of payment

1. The applicant pays 400.00 (four hundred birr) for application fee;
2. The applicant pays the following primary license fee for issued license:
 - a. If it is radio service birr 10,000.00 (ten thousand birr);
 - b. If it is television service birr 50,000.00 (fifty thousand birr);
 - c. If it is radio and television service birr 60,000.00 (sixty thousand birr);
 - d. If it is additional channel accreditation, it will be birr 3,000.00 (three thousand) for each;
3. The licensee pays the following annual fee:
 - a. If it is radio service birr 8,000.00 (eight thousand birr);
 - b. If it is television service birr 40,000.00 (forty thousand birr);
 - c. If it is radio and television service birr 50,000.00 (fifty thousand birr).

11. Period of Payment

1. When the applicant fills and submit the application form, there is a payment of registration fee;
2. Before getting the license certificate, the licensee shall pay license, annual and renewal fees;

3. Where the broadcasting service annual fee is not paid within 60 days after the end of the government fiscal year, a penalty of 5% shall be added for each month of delay; however, the total amount of penalty shall not exceed 50% of the license fee.

Part Five

License suspension, Revocation and Submission of Grievance

12. Suspension of License

1. The Authority may suspend a broadcasting service license where the licensee violates the provisions of proclamation and this directive;
2. The decision of suspension made in accordance with sub article (1) of this Article shall be served to the licensee in writing, stating the reasons thereto and the effective date of the suspension;
3. After the Authority mentions the reason of suspension, the licensee shall be notified in writing the reason of clearance of suspension with in 15 day;
4. If the Authority ascertains that the reason of suspension is cleared, it withdraws the suspension.

13. Revocation of License

The license of the licensee may be revoked by one of the following grounds:

1. where it is proved that the licensee has failed to commence transmission with in one year from the date of obtaining the license;
2. where it is proved that the licensee has got the license not in legal basis and fraudulent means;
3. where the licensee terminates its service for more than one month with out good cause;
4. where a court orders the closure of the licensed organization;
5. where the licensee by its own initiative stops the licensed service;
6. where the licensee violates the provision of Article 30 sub article /4/ of the proclamation in the way of providing transmission programs;

7. where the licensee fails to pay the fee in accordance with article 12 of this directive;
8. where the licensee fails to clear the reason of suspension in accordance with Article 12 sub article /3/ of this directive.

According to Article 13 sub article (1) of this directive the Authority shall notify the licensee the revocation of license in writing.

14. Submission of Grievance

1. After the Authority notifies the suspension or revocation of the license, the licensee may submit its grievance to the board within 14 days in writing;
2. The board will give a decision to the submitted grievance within 30 days.

Part Six

Miscellaneous provision

15. Additional Channel Accreditation

1. The licensee shall get accreditation from the Authority if there is a need of providing programs of foreign broadcast to customers in addition to the previous licensed channel;
2. The licensee shall fill the additional channel request on the prepared form and submit it to the Authority;
3. The Authority shall give decision after examining the additional channel request;
4. If the Authority does not accept the additional channel request, it notifies the reason in writing within 30 (thirty) days from the date of submitted request.

16. *Notifying the Change*

The licensee shall notify the following changes to the Authority in writing with in five (5) days of the change is made.

1. Change of working address;
2. When the licensee improves or terminates the agreement with foreign country broadcasters;
3. If there is a change of other information presented in the time of license issuance.

17. *Transitory Provision*

The organization that has been giving service in the sector before effective date of this directive shall apply and get license in accordance with this directive.

18. *Repealed Directive*

“Providing Service of Foreign Broadcast Program with payment to Customers Directive N^o 5/2007” is hereby repealed.

19. *Effective date*

This directive shall enter into force from _____, 2009.