

Myanmar Opened its Broadcasting and TV Market

Kowit Somwaiya and Vincent Birot
LawPlus Ltd.

On August 28th 2015, the President U Thein Sein signed the first-ever broadcasting law in Myanmar, opening the television market to the private sector. The Broadcasting Law 2015 (the “BL”) sets up the legal framework for the development of the Myanmar broadcasting industry. Commercial licenses for TV or radio will be available for bidding and an independent supervisory authority will be in charge of the applications review. This new market offer wide opportunities to investors from broadcasting infrastructures to broadcasting services.

Creation of an Independent Supervisory Authority

The BL provides for the creation of the National Broadcasting Council (the “NBC”), an independent supervisory authority composed of 9 persons from civil society. However, the nomination process of the NBC’s members remains under the scrutiny of the political power.

The NBC will be in charge of the publication of regulations under the BL, including the detailed application process for commercial licenses and the preparation of the broadcasting codes of conduct.

Broadcasting Licenses

The BL provides for 5 types of licenses: Public Service Broadcasting, Commercial Broadcasting Services, Community Broadcasting Services, Government Broadcasting Services and Broadcast Distribution Services. Each license, with the exception of the Broadcast Distribution Services, is sub-divided between radio and television licenses.

The application process will be subject to a competitive tender. In lower population density areas or for community broadcasting license the NBC may allow ad-hoc license applications.

Section 35 of the BL gives the main criteria for the application review process. They notably include the financial feasibility and economic viability of the project, the experience of the applicant in the broadcasting industry, the quality of the proposed programs and the respect of media pluralism. Further criteria are expected to be released by the NBC upon the publication of regulations on the license application process.

The NBC has the power to reject or decline license applications. Radio broadcasting licenses are granted for 7 years, TV broadcasting licenses are granted for 10 years and Broadcast Distribution Services licenses are granted for 15 years. The licenses can be renewed within 45 days after the

expiry date. There is no deadline in the BL for the NBC to review an application. However, once granted, a license holder must start to broadcast no more than one year from the date of issuance of the license.

Restriction of Ownership

Commercial Broadcasting Services can be undertaken by a wholly private owned company registered in Myanmar. The BL seeks to avoid media concentration by limiting the cross-ownership between private newspapers and broadcasting media in the same broadcasting zone at 30%. The NBC will be charged to enact detailed regulations on media concentration and cross ownership limitations.

Foreign ownership in Commercial Broadcasting Services is limited to 30%. When applying for a license, applicants will have to disclose their ownership structure to the NBC and to the public. Any change of 5% or more in the ownership structure will be subject to the NBC approval. However, there is no foreign ownership restriction concerning Broadcast Distribution Services.

Timeline for License Application

According to Section 103 of the BL, the NBC shall be established within 6 months following the promulgation of the BL. Therefore, the bidding process could be opened as soon as before the end of the year.

The opening of the Telecommunication sector in 2013 has been a success in Myanmar with an increase of the country's teledensity rate from 10% to 40% in only two years. The Government expects that the broadcasting industry will follow the same path and benefit from foreign expertise and massive investment in infrastructure.

Kowit Somwaiya is the Managing Partner of LawPlus Ltd. and LawPlus Myanmar Ltd. Vincent Birot is a Counsel of the firms. They can be contacted at kowit.somwaiya@lawplusltd.com and vincent.birot@lawplusltd.com respectively.

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