

MEMORANDUM OF UNDERSTANDING

BETWEEN

THE COMPETITION COMMISSION



AND

THE INDEPENDENT BROADCASTING AUTHORITY



(Under Section 66 of the Competition Act)

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AND
THE INDEPENDENT BROADCASTING AUTHORITY (IBA)

1. PREAMBLE

- 1.1. This Memorandum of Understanding ('MoU') sets out a framework of co-operation between the Competition Commission and the Independent Broadcasting Authority ('IBA'), as provided under Section 66 of the Competition Act 2007 (the 'Competition Act'), for the effective exercise of their respective responsibilities and to establish a mechanism for practical co-operation in the exercise of those responsibilities, including the use of the expertise of the IBA in respect of investigations under the Competition Act.

2. ESTABLISHMENT AND RESPONSIBILITIES

- 2.1. The Competition Act has been enacted to set up a Competition Commission, to make better provisions for the regulation of competition and for matters incidental thereto and connected therewith. The Competition Commission has been established as an independent body corporate under Section 4 of the Competition Act and mandated to enforce the Competition Act. To this end, the Competition Commission is empowered to, inter alia:
- a) keep the operation of markets in Mauritius and the conditions in those markets under constant review;
 - b) investigate restrictive business practices in the form of collusive agreements, monopoly situations and anti-competitive mergers;
 - c) issue orders and directions in accordance with the Competition Act and impose financial penalties or remedies on any enterprise which conducts its business in breach of the Competition Act; and
 - d) undertake general studies on the effectiveness of competition in individual sectors of the economy in Mauritius.
- 2.2. The IBA is mandated by the Independent Broadcasting Authority Act to act as the regulator for radio and television broadcasting in Mauritius and has been established with the objectives to:-
- a) promote the provision of a diverse range of radio and television broadcasting services throughout Mauritius;
 - b) promote the development of broadcasting services which are responsive to the needs of the Mauritian audience;

- c) preserve and promote the plural nature of Mauritian culture by ensuring that licensees include in their services programmes reflecting the linguistic and cultural diversity of Mauritius;
- d) ensure that licensees include in their services regular locally produced programmes;
- e) ensure that broadcasting services are not controlled by foreign nationals;
- f) impose limitations on cross media control of private broadcasting services;
- g) ensure fair competition between broadcasting licensees;
- h) set acceptable standards for programmes and advertising and monitor compliance with those standards;
- i) ensure that broadcasting services –
 - I. are of such a nature as not to encourage or incite crime or racial hatred leading to disorder or offending public feeling;
 - II. give adequate coverage to information, education, culture, entertainment and recreation;
 - III. are impartial and accurate;
- j) be the sole authority empowered to issue licences for broadcasting;
- k) levy fees in respect of licences issued;
- l) inquire into public complaints against a licensee and take any action it thinks appropriate;
- m) promote together with the Mauritius Telecommunications Authority, the most efficient use of the broadcasting frequency bands;
- n) monitor, after consultation with the Mauritius Telecommunications Authority, the availability of segments of broadcasting frequency bands and make recommendations for the allocation of frequencies to licensees of broadcasting services.

3. MATTERS OF MUTUAL INTEREST

3.1. The Competition Commission and the IBA are both committed to conduct their responsibilities in the public interest. They recognise the importance of mutual consultation across a wide range of issues relevant to the radio and television broadcasting industry in Mauritius. In entering into this MoU, the Competition Commission and the IBA give due recognition to:-

- a) promote co-operation and coordination between the Competition Commission and the IBA when dealing with cases of anti-competitive behaviour in the radio and television broadcasting industry in Mauritius;
- b) provide one another with mutual assistance to facilitate the performance of the functions with which both institutions are entrusted within their respective legislative mandate;
- c) promote competition and address anti-competitive behaviours within the radio and television broadcasting industry;
- d) share information relevant to their functions; and
- e) improve understanding of the respective roles of the Competition Commission and the IBA.



4. AREAS AND FORMS OF CO-OPERATION

4.1. In the mutual interests of the Parties, co-operation will be materialised and facilitated within the areas set out below, subject to reasonably available resources:

- a) Exchange of views on policy developments relating to the field of competition law and enforcement and the field of radio and television broadcast. This would take the form of joint production or commissioning of non-confidential documents in the field of competition law and policy such as policy papers, briefs or technical reports;
- b) Exchange of expertise and experience from the IBA and the exchange of experience from the Competition Commission in the field of competition advocacy, including the promotion of a competition culture through raising awareness of entities and the wider public about competition legislation and enforcement in the radio and television broadcast industry. This would also include expert meetings or consultations, including via e-mail, physical, telephone or online communication platforms between experts of the parties regarding exchange of non-confidential information on issues of mutual interest;
- c) High-level meetings and/or visits for the purposes of discussing co-operation and joint activities as well as reviewing the prospects of the overall partnership. The IBA and the Competition Commission may periodically hold such consultations and meetings during the calendar year;
- d) Participation of personnel of the Competition Commission and the IBA at training courses on issues of mutual interest organised or sponsored by either or both parties;
- e) Exchange of non-confidential information in the field of competition law and policy such as regular publications, including annual reports, studies, books, journals and information bulletin;
- f) Joint collaboration between the IBA and the Competition Commission to undertake market studies in the radio and television broadcasting industry;
- g) Participation in conferences, seminars and other events organized each other.

5. CONSISTENCY OF REGULATORY FUNCTIONS

5.1. Where the IBA is in receipt of a complaint or identifies any matter which it considers might infringe the relevant provisions of the Competition Act, it may request the Competition Commission to launch a formal investigation. The Competition Commission shall revert to the IBA and inform the IBA whether there are reasonable grounds to institute an investigation under the Competition Act or, if such is not the case, refer the matter back to the IBA.

5.2. Both the Competition Commission and the IBA may share their expertise in any matter under investigation. The IBA may provide the Competition Commission with any views when notified of an investigation under the Competition Act that involves a licensee of the IBA.



- 5.3. The Competition Commission may consult the IBA prior to the launch of an investigation. The Competition Commission shall inform the IBA of investigations pertaining to the radio and television broadcasting industry launched under the Competition Act.
- 5.4. The Competition Commission will seek the views of the IBA at different stages of such investigations, including on its provisional findings report. The Competition Commission may also request the IBA for its expertise or assistance during such investigations.
- 5.5. The Competition Commission will also seek the views of the IBA prior to the imposition of any direction on its licensees.
- 5.6. It is recognised that this MoU provides for practical co-operation between the Competition Commission and the IBA in relation to their respective responsibilities and does not displace those responsibilities.

6. EXCHANGE OF INFORMATION

- 6.1. The Competition Commission and the IBA may, where appropriate, share information relevant to competition issues in the radio and television broadcasting industry and for better protection of consumers of radio and television broadcast.
- 6.2. The Competition Commission and the IBA agree that information available to one which is relevant to the responsibilities of the other will be shared upon request, in so far permitted by their respective legislations.
- 6.3. Each party will use all means and take all reasonable steps to obtain and impart the information sought, to the extent permitted by law, with due regard to urgency, operational considerations and any condition imposed by the initial author of the information on its use or disclosure.
- 6.4. Each party shall designate an officer, acting as contact point to facilitate the exchange of information and the process.

7. DISCLOSURE OF CONFIDENTIAL INFORMATION

- 7.1. Each party will respect the confidentiality and/or secrecy of information exchanged which has been obtained as a result of the other party's statutory powers or other legal obligations and relates to the affairs of any individual, business or undertaking. Each party will comply with any non-disclosure obligations that are binding on the other, in particular those set out in Section 70 of the Competition Act.
- 7.2. It is agreed that the Competition Commission may publish its decisions with reasons and as such may have to disclose information exchanged between the two parties subject to prior



written consent of the IBA. However, in no event shall any party disclose any information which is protected as confidential under the Competition Act or under the Independent Broadcasting Authority Act.

8. FINANCIAL ARRANGEMENTS

- 8.1. Each party shall be responsible for its own costs incurred in the execution of its duties in terms of this MoU.

9. UNSOLICITED ASSISTANCE

- 9.1. Where one party has information that will assist the other party in the performance of its functions or exercise of its powers, it may provide such information on a voluntary basis even though the other party has made no request. The terms and conditions of this MoU will apply if the party which provided the information specifies that it is exchanging information under this MoU.

10. REVIEW AND IMPLEMENTATION

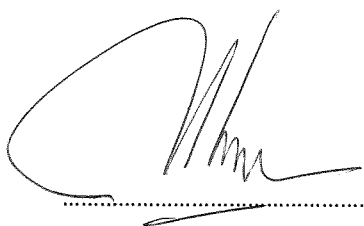
- 10.1. This MoU is not intended to create binding obligations on either party, and it shall be reviewed as and when the need arises, or following written request of either party. Any changes shall be subject to the agreement of both parties.

11. EFFECTIVE DATE

- 11.1. This MoU shall be effective from the date of signature by both parties and shall endure for an indefinite period, unless terminated by mutual consent of both parties at a specified date.

- 11.2. This MoU has been made in 2 originals.

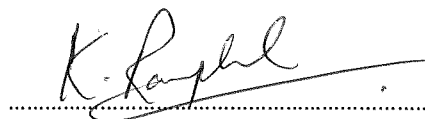
Signed in duplicate in the Republic of Mauritius on 10th day of May 2023



Mr. Deshmuk Kowlessur

Executive Director

The Competition Commission



Mr. Kaveeraj Ramphul

Acting Director

The Independent Broadcasting Authority