Report and Recommendations of THE MEDIA COMMISSION

appointed by THE SUPREME COURT OF PAKISTAN 2013



Tabulated Responses from 8 Roundtables

Views of the Government of Pakistan about Recommendations

Report and Recommendations of THE MEDIA COMMISSION

appointed by THE SUPREME COURT OF PAKISTAN 2013

Tabulated Responses from 8 Roundtables

Views of the Government of Pakistan about Recommendations Report of the Media Commission appointed by the Supreme Court of Pakistan 2013.

As the Report is placed on the website of the Supreme Court, under "News and Updates", the text of the Report is part of the public domain and may be freely quoted, reproduced, cited, with due care to ensure accuracy.

This publication contains additional material comprising tabulated Responses from consultative Roundtables and the text of the Questions and Answers on this subject tabled in the National Assembly.

The Pakistan Office of Friedrich Ebert Stiftung which has sponsored this publication as a public service, will appreciate being informed if any part of this publication is quoted, reproduced, cited elsewhere, with due acknowledgement of this printed source.

email address of FES, Pakistan Office : info@fes-pakistan.org

email address of the Media Commission : mediacommission.2013@gmail.com

Friedrich Ebert Stiftung, Pakistan Office No.10A, Street 31, F-8/1 Islamabad, Pakistan Tel: +92 51 2850912-6, Fax: +92 51 2850917 Website: www.fes-pakistan.org

ISBN: 978-969-9675-02-07

Contents

Foreword	
About Friedrich Ebert Stiftung (FES)	
About Chairman and Member of the Media Commission	
About Citizens' Initiative on Media Issues (CIMI)	
About Society for Alternative Media and Research (SAMAR)	
Part One of the Report by The Media Commission	
Introduction 0	1
Terms of Reference (TORs)	7
Working Methods used by the Commission 12	2
Observations by the Media Commission 20	0
Recommendations by the Media Commission 30	0
Executive Summary of the Recommendations 6	1
Part Two of the Report by The Media Commission	
Executive Summary of the Recommendation 70	0
Recommendations for TOR Nos. A, B, C, D, E, G, H, I 80	0
Detailed Findings, Observations and	
Recommendations by Commission on 8 out of 9 TORs 99	9
Section-II of Part-Two of the Report	13
Recommendations by the Commission regarding TOR No. A 1	50
TOR No. B	55
TOR No. C	99
TOR No. D 2	17
TOR No. E 22	23
TOR No. G, H, I 22	37
Annexures of Part One 2	63
Annexures of Part Two 3.	23
Elements About The Consultative Roundtables 33	27
Responses and Views of GoP about Report and	
	51
Financial record of the Commission's work 3	67

Foreword

This Report and Recommendations of the Media Commission (already part of the public domain through the website of the Supreme Court of Pakistan www.supremecourt.gov.pk) alongwith tabulated Responses from eight Roundtables, is being made available as a public service in printed book form by the Pakistan office of Friedrich Ebert Stiftung.

By facilitating convenient access to the content, the aim is to enable public discussion, further research, reference and reformative action.

The principal groups for which this publication is being provided comprise citizens and civil society forums, media academia, students, journalists, practitioners, media proprietors, editors, electronic media content-controllers, advertisers, advertising agencies, cable TV operators, internet media specialists, regulatory bodies, the legal and judicial sectors, Government officials, and members of the Senate, National Assembly, Provincial Assemblies and Local Bodies.

I sincerely hope that these groups will use this publication to initiate and continue debates and actions for progressive change towards an equitable media sector in which unprecedented freedom is exercised with transparency and responsibility.

Philip Kauppert Resident Director, Pakistan, Friedrich Ebert Stiftung Islamabad March 2014

FRIEDRICH EBERT STIFTUNG (FES)

The Friedrich Ebert Stiftung (FES) is a German non-profit organisation committed to the values of Social Democracy. It was founded in 1925 as a political legacy of Germany's first democratically elected president. Friedrich Ebert. To this day FES follows his mission to promote freedom, solidarity and social justice through the political process in Germany and abroad.

At present, FES maintains offices in over 100 countries worldwide, of which 15 are in Asia.

FES Pakistan has been working in the country in cooperation with local organisations since the 1980s. Its programmes aim at strengthening democratic institutions from national to local level; increasing the political participation of youth; enhancing women's empowerment and gender equality; promoting a free and professional media; advocating social justice in the formal and informal economy; and enhancing regional cooperation for peace and development.

www.fes-pakistan.org

Justice (r) Nasir Aslam Zahid, Chairman, Media Commission.

The Honourable Justice (R) Nasir Aslam Zahid (born February 3, 1935 in British India),

Barrister-at-Law, is one of the most respected names of Pakistan's judiciary. Son of the first Governor of the State Bank of Pakistan Mr. Zahid Hussain, Nasir Aslam Zahid has served as Chief Justice of the Sindh High Court and then as a Judge of the Federal Shariat Court of Pakistan and as Judge of the Supreme Court of Pakistan. He gained even more honour and respect when he resigned from the Supreme Court in 2000 rather than take oath of office under General Pervez Musharraf's Provisional Constitutional Order (PCO).

He is deeply involved in human rights issues and judicial education, and has spent much of his private time since retirement on dealing with women's legal concerns. As Dean, Faculty of Legal Studies and Head of the Hamdard School of Law at the Hamdard University, Karachi since October 2000, he currently heads a project to provide legal aid to women confined at the Special Prison for Women, Karachi.

Senator (r) Javed Jabbar, Member, Media Commission.

With diverse interests in writing, film-making, voluntary work, environment, international and national affairs, he also has extensive association with virtually all aspects of media. This includes advertising, creating and presenting content for mass media, research, analysis, advocacy and public policy formulation. As a Member of three Federal Cabinets, he handled the portfolios of Information and Broadcasting/Media Development (twice), Science and Technology, National Affairs and Petroleum and Natural Resources. He drafted and helped introduce the first-ever laws in Pakistan for private, independent radio & TV channels and for Freedom of Information.

Fourteen books have been published in Pakistan and overseas, to laudatory reviews, several of which comprise writings on media and communications. He was twice appointed , in 2009 and 2011, as Mediator by the Supreme Court to examine issues arising from petitions by TV channel owners, PTV, PEMRA ,cable operators and helped resolve the disputes. He is Chairman of JJ Media and of the Ardeshir Cowasjee Centre for Writing, IBA, Karachi. (www.javedjabbar.com)

Citizens' Initiative on Media Issues (CIMI)

The Citizens' Initiative on Media Issues is an informal network launched in August 2013 as a successor forum to the Citizens' Media Commission of Pakistan, (CMCP) founded in 1997, and active up to about 2004 as an advocacy body. Both share the aim to apply an independent, public interest perspective to official and private media policies and practices, including advertising, and to articulate specific proposals for reform and innovation. Inspired by the success of CMCP in convening different segments of society to build consensus for freedom of electronic media as well as for exercise of responsibility in use of freedom, CIMI's goal is to enable a sustained counter-narrative to the pervasive commercialization of most media. CIMI supports the introduction of authentic public interest electronic media channels and plans to conduct monitoring of mainstream media through a web-based system.

CIMI helped FES and SAMAR to convene the eight Roundtables held across Pakistan in August-October 2013 to review the Report of the Media Commission and proposes to announce organizational details by April 2014.

Inquiries may be addressed to: jj@javedjabbar.com

Society for Alternative Media and Research (SAMAR)

Journalism is supposed to provide quality information and a wide range of perspectives and voices, promote participation in public discussion, and informed citizenship. But behind the buzzwords of the day convergence, competitiveness, de-regulation, consumer choice – the reality is: a media system with fewer and fewer owners controlling more and more media outlets, and more and more driven by marketing and commercial pressures rather than an ethic of public service.

Society for Alternative Media and Research (SAMAR) is a nongovernmental organization based in Islamabad. The organization is striving for equitable opportunities for peoples, groups, communities, irrespective of political, social and financial status, to express their views to ensure a participatory and representative democratic state and society. For the purpose, SAMAR monitors and analyzes the contents of news and views published and broadcast by media outlets and publishes quarterly 'Media Review' in an effort to create space for wide range of perspectives and voices.

www.alternativemedia.org.pk

REPORT

AND

RECOMMENDATIONS

OF THE

MEDIA COMMISSION

APPOINTED BY

THE SUPREME COURT OF PAKISTAN

JANUARY-JUNE, 2013

Senator (R) Javed Jabbar Member

Justice (R) Nasir Aslam Zahid Chairman

MEDIA COMMISSION

Camp Office : Legal Aid Office, Spanish Homes Appartments, A/13, Block 1, DHA Phase-1, Karachi

The Registrar, Supreme Court of Pakistan Islamabad. March 21, 2013

Sub: Report on TOR No.F of the Media Commission

Dear Registrar,

Assalam-o-Alaikum !

We write to enclose the Report of the Commission on TOR No.F for the attention of the Bench of the Hon'ble Supreme Court as per Court's Order of 15th January, 2013.

In view of the announcement of the date of Elections to be held on 11th May, 2013, this is to request you to kindly bring the Report to the **immediate** attention of the Hon'ble Court, and to convey the request of the Commission as follows:

- (I) That the Court may wish to forward by 25th/26th March, 2013 the Report in part or in its entirety to the Election Commission of Pakistan for ECP's consideration and application of the Commission's Recommendations.
- (ii) That the Court may wish to release the total contents of the Report in the public domain by placing the text on the website of the Court and arrange for its release to the media to enable citizens and media to learn about the Commission's Observations & Recommendations.
- (iii) For reasons stated in the Report, the Commission requests the Court to kindly extend the deadline for the submission of the complete Report (covering the remaining 8 TORs) from 31st March, 2013 to on or before 31st May, 2013.

Thank you for your attention.

Senator (R) Javed Jabbar Member Justice (R) Nasir Aslam Zahid Chairman

Encl: Report

Introduction

- On 15th January, 2013, a Bench of the Honourable Supreme Court of Pakistan comprising Mr. Justice Jawwad S. Khawaja and Mr. Justice Khilji Arif Hussain during its deliberations on Constitutional Petition No.105/2012 along with CMAs-3795 & 3798 of 2012, HRC No.23957-S/2012 and Const. P.53/2012 and Constitution Petition No.104 of 2012 & CMA 3464/12 and Constitution Petition No.117/12 rendered an Order (at Annexure "A") by which a Commission was appointed by the Honourable Court to conduct a study of issues raised by the several petitions through nine Terms of Reference (TORs) at Annexure "B".
- 2. The Commission comprises as Chairman, Mr. Justice (R) Nasir Aslam Zahid and Member, Mr. Senator (R) Javed Jabbar.
- 3. Immediately after the receipt in Karachi by the Chairman and the Member of the written text of the Order and the related documents, on about 21st January 2013, the Commission commenced informal discussion to identify the elements needed for the work of the Commission including a time schedule, logistical, personnel and financial requirements.
- 4. The Chairman and Member decided, at the outset, to render their work for the Commission on an honorary basis i.e. without any remuneration. Only expenses incurred by the Chairman and Member on air travel, hotel accommodation outside Karachi, ground transport in Karachi and elsewhere when and if required would be entitled for reimbursement.
- 5. After reviewing various options, the Commission decided to invite Mr. Salim Gul Shaikh, former Federal Secretary, Government of Pakistan, now a permanent resident of Islamabad to serve as Secretary of the Commission. While accepting the invitation, Mr. Salim Gul Shaikh also insisted on serving the Commission on an honorary basis without remuneration.

- 6. The Chairman, Member and Secretary decided to give such honorary work the highest priority and changed their other private, prior schedules of work to enable them to fulfil their task on time as a public service.
- On 22nd January, 2013, the Commission requested the Honourable Court to arrange for/authorize release of funds required to conduct its work.
- 8. Even before receiving any funds for basic preparatory logistics, the Chairman, Member and Secretary used their private resources to initiate the essential preliminary steps e.g. search for suitable offices, support personnel, ground transport, purchase of air tickets for travel to Islamabad, hotel charges etc.
- 9. The Chairman made available the resources of the Legal Aid Centre, Karachi of which he is also the Honorary Chairman to provide the initial, crucially needed base at which the Chairman, Member and Secretary could work and use secretarial support, computers etc. The Member made available the support services of a civil society organization of which he is a co-founder i.e. SPO (Strengthening Participatory Organization) to provide networking and preparatory support in Karachi, Islamabad,

Lahore, Peshawar and Quetta.

10. After a meeting with the Acting Registrar of the Sindh High Court and communication with the Karachi Registry of the Supreme Court, it was evident that adequate and appropriate office space for the Commission is not available in both the above locations. It was then found that three to four rooms at Qasr-e-Naz, the Federal Lodge at Club Road, Karachi would be the most practical low-cost option. With the help of the Court, such rooms were obtained on payment of rent through the Ministry of Housing & Works, Islamabad. The Commission commenced occupancy of the rooms on 22nd February, 2013, until which time the Commission functioned from the premises of the Legal Aid Centre and with the private resources of the Chairman, the Member and the Secretary.

- As a result of a direction given to the Ministry of Information and Broadcasting, Government of Pakistan by the Honourable Court, an amount of Rs.2 million was received by the Commission by a cheque dated 14th February, 2013.
- 12. To obtain secretarial staff to facilitate the work of the Commission, "wanted" advertisements were placed on a nocost basis on the Internet-based employment exchange service known as "OLX". Two Research Consultants were identified as being relevant.
- 13. The following personnel were engaged on a temporary contract/daily professional fee basis to facilitate the Commission's work:
- (i) Mr. Moeen Ahmed, Office Secretary/Stenographer w.e.f. 06.02.2013,
- (ii) Mr. Sohail Shahzad Bhatti, Stenographer w.e.f. 09.03.2013.

Part-time:

(iii) Ms Afia Salam, Research Consultant, w.e.f. 04.03.2013.

(iv) Ms Kokab Jehan, Associate Research Consultant,w.e.f. 11.03.2013.

14. Without waiting for the completion of all the minimal logistics and office premises etc., the Commission commenced its schedule of meetings with relevant individuals and organizations on 7th February, 2013 at Karachi. To prevent dependence on any other official or commercial organization, the Commission decided to use facilities at a reasonably low cost at 3/4-star hotels to hold such meetings in different cities.

- 15. For air travel, the Commission and the Secretary travelled by either Economy Plus Class or Economy Class.
- 16. From 7th February, 2013 to 18th March, 2013, in Karachi, Islamabad, Lahore, Peshawar and Quetta, the Commission met with individuals associated with organizations in the public sector, the private sector and civil society to elicit their views on the TORs (their names and dates are at Annexure C).

Despite frequent disruption of normal city life in Karachi due to targeted killings, terrorist incidents, strikes and stoppages, the Commission persisted with its work schedule to the optimal extent possible.

- 17. To enable citizens at large to also contribute their valued views with regard to the TORs of the Commission, advertisements in a prominent quarter-page size were placed in leading Urdu, Sindhi and English newspapers across Pakistan on 19th February, 2013. The advertisements conveyed the text of the TORs and listed the email address and P.O. Box number of the Commission to which the citizens and citizen forums could address their views.
- 18. The Commission decided not to publicize the schedule of its meetings in advance and did not make any announcement to the media in order to ensure that the work proceeds without distraction.
- 19. All those who met with the Commission were assured that their statements and views would remain confidential if so desired by them. This assurance enabled such persons and organizations to provide data and share their views with the Commission in complete confidence.

21st March, 2013

<u>Contents of Report to the Supreme Court</u> by the Media Commission on Term of Reference No.F

- 1. Term of Reference No.F: "To enquire into allegations of media related corruption and suggest steps to ensure impartial and independent media for the upcoming elections".
- 2. Introduction ... comprising background information, preparatory process to commence the formal work of the Commission, etc.
- 3. Working methods adopted by the Commission.
- 4. Reasons for compiling and submitting the Report to the Supreme Court in two phases.
- 5. Categories of normal content in news media.
- Observations about TOR No.F by the Commission based on interviews with 165 individuals and 80 organizations in Islamabad, Karachi, Lahore, Peshawar and Quetta.
- 7. Recommendations by the Commission for consideration by the Supreme Court to enable fulfillment of the aim described in TOR No.F i.e. ".....to ensure impartial and independent media for the upcoming elections".
- 8. Executive Summary of Recommendations by the Media Commission.

ANNEXURES:

- A. 9 TORs contained in the Order of the Supreme Court dated 15th January, 2013. (reproduced in this Report on page 09)
- **B.** Names, titles, dates, locations of individuals and organizations that participated in meetings with the Commission.

- **C.** Codes of Ethics/Conduct as formally adopted / declared by:
 - 1. All Pakistan Newspapers Society (APNS)
 - 2. Council of Pakistan Newspaper Editors (CPNE)
 - 3. Pakistan Federal Union of Journalists (PFUJ)
 - 4. Pakistan Television Corporation (PTC)
 - 5. Pakistan Broadcasting Corporation (PBC)
 - 6. Pakistan Electronic Media Regulatory Authority (PEMRA)
 - 7. Pakistan Broadcasters Association (PBA)
 - 8. Press Council of Pakistan (PCP)
 - 9. Pakistan Coalition for Ethical Journalism (PCEJ)
 - 10. Pakistan Advertisers' Society (PAS)
 - 11. Advertising Association of Pakistan (AAP)
 - 12. Election Commission of Pakistan (ECP) and
 - 13. Relevant international Codes/Guidelines.

Terms of Reference (TORs) of the Media Commission (15th January 2013)

- A. To consider the role of the Ministry of Information and Broadcasting and other Government agencies in ensuring freedom of print and electronic media and whether or not there is information and material brought before the Commission to justify the continued functioning of the Ministry, consistent with Article 19 of the Constitution.
- B. To analyze whether and to what extent PEMRA has been able to fulfil its developmental mandate and regulatory functions independently under the PEMRA Ordinance.
- C. To determine if it advances or is consistent with the fundamental right under Article 19 ibid to allow the Government or its instrumentalities to be major players in the media through State Television and radio broadcasters.
- D. To ascertain if PTV, PBC and APP, the recipients of public funding of billions of rupees, have independent in-house management and transparent policies in place which advance the objectives of fairness and even-handedness expected of publicly-funded entities and to determine if there are adequate checks against lop-sided or biased dissemination of information by these publicly-funded entities.
- E. To consider the feasibility of letting the media adopt a selfregulatory code of conduct instead of content regulation, in the light of international standards and best practices.
- F. To enquire into allegations of media-related corruption and suggest steps to ensure impartial and independent media for the upcoming elections.
- G. To inquire whether, when giving money to different media houses directly for or on the pretext of advertisements, were the

government or its functionaries pursing a transparent, duly approved, bona fide Government advertisement allocation policy or were the decisions to buy advertisement space with public money made arbitrarily or without objective criteria or to favour particular channels, journalists or media houses.

- H. To propose a single, transparent, objective, non-discriminatory policy for allocation of Government advertisements among electronic and print media.
- I. Whether the Federal and Provincial Governments, autonomous and semi-autonomous bodies, Government corporations or agencies adhere to PPRA rules or other transparent processes while granting advertisement contracts to advertising agencies or media houses. If not, then to suggest processes which are fair and transparent and which ensure the greatest value and fairest dissemination of information.

Term of Reference No.F (as per the Court Order)

"To enquire into allegations of media-related corruption and suggest steps to ensure impartial and independent media for the upcoming elections."

Allegations of media-related corruption in general as per the Commission's formulation:

- 1. Bribes, inducements, perks, etc. to journalists and media personnel to obtain prominent or favourable coverage in media or to plant false or defamatory news against others.
- 2. Discriminatory, undue allocation of Government-controlled advertising to print media and electronic media.
- 3. Undue financial benefits obtained by/given to Government officials through direct payment in cash, or kind, or through kickbacks on award of advertising contracts to favoured advertising agencies.
- 4. Unfair selection/appointment of advertising agencies and media, using different methods.
- 5. Non-media-related commercial interests of media proprietors (e.g. ownership of other commercial enterprises) which influence the contents and tone of news media coverage.
- 6. Corruptive impact of cross-media ownership.
- 7. Other forms of media-related corruption e.g. misuse of Stateowned media to advance unethical individual or organizational benefits.
- **Note:** The Commission's opinion on the above 7 allegations will be rendered in the second part of this Report, not in this part which is the first part of the Report.

Allegations of media-related corruption in the context of elections due in 2013 as per the Commission's formulation:

- 1. That, in the last quarter of 2012 in particular and in the period leading up to the commencement of the formal election phase, placement of ads in media about various development projects of the Federal Government and the four Provincial Governments have **increased notably** "so as to influence public opinion" in favour of one or more political parties or personalities.
- **Note:** The Supreme Court has already in 2012 taken notice of, and prohibited the further publication or broadcast of advertisements about Government programmes and projects in which the photographs and names of public office-holders belonging to ruling parties are featured.
- 2. That certain political parties and leaders, through their moneyed supporters, have already even **before** the commencement of the formal election phase, covertly "purchased" certain TV channels on a short-term basis, or on a part-time basis e.g. for about three months, or for about three hours of prime time per day, in order to slant programming contents in their own favour in a subtle manner.
- 3. That, similarly, prospective candidates and political parties have paid bribes/offered inducements to certain TV anchors, producers, news directors or TV channels to make comments or project content which advances their own electoral prospects.
- 4. That some journalists/proprietors/editors/broadcasters in the print and broadcast media have also been given financial inducements to favour certain parties or leaders.
- 5. That budgets for the advertising campaigns of the Federal Government and organizations under its control, as well as similar budgets of the four Provincial Governments and of

organizations under their control were deliberately increased in the years between 2008 and 2013 both for corrupt purposes and to divert funds for eventual use in the Elections 2013.

- 6. That certain private-sector firms spend large amounts on advertising in media to covertly discourage/prevent/influence these media from reporting or commenting adversely upon aspects of these same private firms.
- 7. That most of the media, print and broadcast, do not adequately ---- or never ---- publish or broadcast investigative report/content which implicates/exposes how some of the largest advertisers are involved in irregularities, malpractices, unethical actions.
- 8. That the above two allegations may not be directly electionrelated but that they reflect the tendency of media to be vulnerable to exploitation and misuse for corrupt aims.
- 9. Non-financial aspects of media-related corruption: e.g. undeclared individual sympathies, alignments, etc. of media proprietors or journalists or broadcasters which will subtly or explicitly slant the nature and volume of coverage given by certain media for or against certain parties and candidates.
- That the 4 to 5 in-house "CD" channels allowed by PEMRA to each cable TV distributor/operator can be/will be used to project advertising content or other messages at a local – not a national – level, to favour particular candidates or political parties.

Working methods used by the Commission

- 1. The nine Terms of Reference (TORs) given to the Commission by the Supreme Court are wide-ranging and comprehensive in scope.
- 2. Ideally, to provide a detailed, minutely investigated Report would require at least four to five times longer a period than the period specified in the Court order i.e. only ten weeks, from 15th January 2013, the date on which the Order was rendered, to the deadline stated in the order i.e. 31st March 2013. This tenweek (about 75 days) period includes / included the preliminary phase of about 15 days required for the preparatory logistics to enable the Commission to formally commence its work. This meant that the actual time available to the Commission was less than eight weeks i.e. less than 60 days, including holidays and days required for travel between cities, days lost due to strikes, disruptions caused by terrorist incidents, time lost due to loadshedding (even at Qasr-e-Naz where our office was located, the electricity was cut-off on 14th March, 2013 due to non-payment of bills). This disruption occurred just when the drafting of the Report on TOR No.F was about to commence. Alternative arrangements were made to relocate the work once again at the Legal Aid Centre until a generator was obtained on rent for our own office use.
- 3. The Order of the Court does state in para 11 that :

"The report of the Commission may be submitted in Court on or before **31.3.2013 or on such other date** as may be fixed by the Court if requested by the Commission"

4. Noting that part of the Terms of Reference e.g. TOR no. F requires **urgency** in the submission of at least the part of the Report related to TOR No.F and recognizing that detailed investigation of records, documents, tax returns, other financial data would necessitate the use of substantive resources of time, professional expertise and funds which the Court itself is in a position to authorize, the Commission decided to use the following work methods to compile its Report :

- A. Face-to-face meetings with individuals who represent all the official and private organizations relevant to the scope of the TORs.
- B. Similar meetings in person with individual media specialists and representatives of civil society organizations.
- **Note:** All principal observations made by every person who participated in the hearings held by the Commission were recorded in writing. A summary of these observations was promptly prepared for verification and for permanent reference whenever required.
- C. Review of various texts, documents etc., provided to the Commission by those who met with it.
- D. Data and documents obtained by the Commission from official and private sources.
- E. Research through websites on the Internet, from journals, and books.
- F. Observations and notes by the Commission about content in different media.
- G. Contributions received from citizens and forums in response to the advertisements published by the Commission in leading newspapers.
- H. Review of the petitions admitted by the Court on matters related to all or some of the TORs.

<u>Reasons for compiling and submitting the Report</u> <u>to the Supreme Court in two Parts</u>

- As stated earlier, the Order of the Court requires the Report to be submitted on or before 31st March, 2013 or, if requested, by the Commission and so permitted by the Court, on such other date as fixed by the Court.
- The Commission noted that one specific TOR i.e. TOR No.F deals directly with the general elections whose formal election schedule is expected to commence in the last week of March 2013 to enable elections to be held in May 2013.
- 3. TOR No.F reads:

"To enquire into allegations of media-related corruption and suggest steps to ensure impartial and independent media for the upcoming elections."

- 4. While some aspects of the remaining eight TORs also have a bearing on the upcoming elections, these other eight TORs can be placed in a medium-term and long-term perspective of basic institutional reforms needed. These do not have an urgent, "overnight" immediacy. Steps regarding these other eight TORs may need to be initiated at the earliest. But TOR No.F deserves the most urgency.
- 5. TOR No.F is stated in the form of a single sentence but actually comprises two distinct and separate parts i.e: the first part which requires the Commission "To enquire into allegations of media-related corruption....." and the second part which requires the Commission to "....suggest steps to ensure impartial and independent media for the upcoming elections." As is evident in a reading of the list, as per the Commission's own formulations, of "Allegations of media-related corruption in general" and the list of the "Allegations of media-related corruption in the context of Elections 2013" recorded in the first section of this Report: the allegations themselves cover a

wide range of possible malpractices, unethical actions and even, in some cases, criminal acts. Given the imminence of Elections 2013, the Commission is firmly of the opinion that it is simply not possible to conclusively investigate even a single one of the 17 allegations or the validity of apprehensions. The only exception would be to uphold or reject the suspicion in allegation No.1 in the list of "Allegations of media-related corruption in the context of Elections 2013" and that too by inference i.e. by noting the comparative data for the significant increase in allocation for advertising between 2008 and 2013 by the Federal Government and four Provincial Governments with the alleged covert aim of funneling some of the funds for use in the campaign phase of Elections 2013.

As of 21st March, 2013, the Commission has not received comprehensive data on the above subject from the Federal and the four Provincial Governments. Some of the requested data has been received. The remaining data is awaited and will be provided to the Hon'ble Court immediately on receipt.

Nevertheless, even after all the data is received, the Commission cannot make a definitive conclusion on this subject unless all possible investigative procedures are conducted e.g. even the seemingly simple process of verifying deposits made into bank accounts of individuals suspected to be involved in any malpractice related to the above allegations would require considerably more time and assertion of the legal rights of the Commission to access such private information etc.

6. Therefore, the Commission decided to submit to the Hon'ble Court only Observations about the allegations of media-related corruption based on extensive discussion with all stakeholders possessing diverse viewpoints and offering some of the required documents rather than attempt to render a definitive finding on each allegation. Such definitive findings can only be arrived at after detailed investigation. The Commission's Observations as recorded in this Report convey the opinion that media-related corruption does appear to exist in various spheres of media and which deserves substantive investigation in at least one case in each category of allegations to arrive at, hopefully the truth resulting in legal, punitive action to thereby serve as a credible deterrent against the recurrence of such corruption in the future.

- 7. In view of the foregoing paragraphs, the Commission decided to consider and provide precise Recommendations for the possible attainment of the second part of the sentence that expresses TOR No.F i.e. ".... to suggest steps to ensure impartial and independent media for the upcoming elections."
- 8. Thus, the Commission is submitting its Report to the Hon'ble Court in **two phases** as follows:
 - A. The first part of the Report would deal exclusively with TOR No.F and all efforts would be made to submit the Report to the Court by 21st March, 2013 to enable the Court to consider whether one, or more or all Recommendations in the Report could be made part of the Election process between 21st March 2013 and 11th May 2013.
 - B. The second part of the Report containing material on the remaining eight TORs would be submitted, if the Court so permits, by 31st May, 2013.

Categories of normal content in news media:

TV:

- 1. News bulletins.
- 2. Talk shows.
- Other current affairs reports.
 e.g. one-on-one interviews, "opinion" segments, field visits to constituencies, studio or field-based shows with audiences.
- 4. Satirical, humorous, political programmes.
- 5. Investigative documentaries.
- 6. Announcements about "breaking news".
- 7. Tickers running across base of TV screen.
- 8. Super-impositions of words or visual symbols unrelated to the subject on the main part of the TV screen.
- 9. Announcements made between programmes or during mid-breaks in programmes about other programmes or about other subjects.
- 10. Foreign content.
- 11. Advertising for various products and services.
- 12. Paid-for political advertising for individual candidates and political parties.
- 13. Any other types of content.

Radio:

- 1. News bulletins.
- 2. Music.
- 3. Talk shows.
- 4. Other current affairs reports. e.g. one-on-one interviews, "opinion" segments, audio-recorded visits to constituencies, studio or field-based shows with audiences.
- 5. Satirical, humorous, political programmes.
- 6. Investigative documentaries.

- 7. Announcements about "breaking news".
- 8. Brief audio intrusions through music or words during unrelated programming.
- 9. Announcements made between programmes or during mid-breaks in programmes about other programmes or about other subjects.
- 10. Indian and western music, songs, etc.
- 11. Advertising for various products and services.
- 12. Paid-for political advertising for individual candidates and political parties.
- 13. Any other types of content.

Printed newspapers and magazines:

- 1. News reports.
- 2. Photographs related to news/or unrelated.
- 3. Opinion features/columns by staff writers or by contributing columnists.
- 4. Editorials.
- 5. Cartoons.
- 6. Any special content e.g. a "box" item.
- 7. Advertising for various products and services.
- 8. Paid-for advertising by candidates and political parties.
- 9. Any other types of content.

Web-based/Internet/Cell phone media:

- 1. Websites of TV channels
- 2. Links to the above TV websites/content cited by other websites/portals/channels, etc.
- 3. Websites of Radio channels.
- 4. Links to the above Radio websites/content cited by other websites/portals/channels, etc.
- 5. Web-based TV channels.

- 6. Web-based Radio channels.
- 7. Blogs.
- 8. Other forms of content e.g. SMS messages.
- 9. Web-based advertising for various products and services.
- 10. Paid for political advertising by candidates or political parties.
- 11. Any other types of content.

Observations by the Media Commission with regard to TOR No.F

- 1. Observations in this section of the Report are being noted only on those aspects of the media that are of direct relevance to TOR No.F i.e. "to enquire into allegations of media-related corruption and suggest steps to ensure impartial and independent media in the upcoming elections".
- Observations by the Commission on aspects of media covered by the other eight TORs will be presented in the second part of the Report which is expected to be submitted on or before 31st May, 2013.
- 3. As noted in the Introduction to this Report and as detailed in the relevant Annexures, the Commission met with about 165 individuals associated with 80 different organizations associated directly or indirectly with the media sector, official and non-official, Federal and Provincial, between 7th February, 2013 and 18th March, 2013 in Islamabad, Karachi, Lahore, Peshawar and Quetta.
- 4. The Commission was thus able to benefit from the views and information provided by all these esteemed persons. Such inputs came from a Federal perspective as well as from the perspective of each of the four Provinces of the Federation. Virtually, every single segment of the media sector is represented in the range of persons heard and noted.

The Commission received widely contrasting opinions and analyses. Some of these were often entirely contradictory of other claims about facts and other opinions.

5. Unsurprisingly, the Federal Government and each Province have their own distinct internal operative conditions and perceptions. The Commission separately met the Federal Minister and the Federal Secretary of the Ministry of Information and Broadcasting and the Secretaries of the Information Departments of the four Provincial Governments and other relevant persons. There were stark diversities of perceptions. For instance: in one Province, the Secretary stated with confidence: "There is not a single dummy newspaper published in this Province". Whereas only about one hour later, in a meeting with media specialists of the same Province it was confidently asserted: "The large majority of the newspapers on the approved media list of the Department of Information consists of totally dummy newspapers !"

In one Province, there is a substantial sum spent on advertising the programmes of the Provincial Government in electronic media. In another Province, not a single rupee has been allotted for this same purpose.

In one Province, importance is given to the relevance of skills and prior experience possessed by an officer in the subject of media and communication before appointing him or her to the Information Department. In another, this aspect is given low or no priority.

6. In response to the questions as to what weightage interviewees would give to the influence of media on the voting and results of the Elections 2013, there was once again a sharp contrast. For example, Lt. General (R) Abdul Qadir Baloch, MNA from NA-271 comprising three large but sparsely populated districts of Panjgur, Kharan and Washab in southern Balochistan was of the firm opinion that the media's impact would be "zero". An additional reason given by him and others was that for several weeks past, organizations with extremist views have prohibited Cable TV Operators in southern Balochistan from distributing the signals of virtually all the PEMRA-licensed TV channels on political grounds. They said that only the single Balochi

language TV channel is permitted to be viewed. As well as the fact that in many parts of this area of Balochistan, neither the national anthem nor the flag of Pakistan are permitted to be sung, heard or seen in public.

Other opinions from elsewhere, on the average, were of the view that media would influence the results with a weightage of between 10 to 20 per cent with only one individual claiming the effect would be about 50 percent.

It was said that the impact of media would be higher in urban areas compared to rural areas.

It was further said that, in overall terms, factors such as affinity with clan, tribe, sect, religion, language, ethnicity, loyalty to a particular individual candidate or membership/association with a political party would be the other sources of influence in shaping the Election results.

Compared to earlier Elections, the prevailing conditions in the country would enhance the role of the media in facilitating and campaigning by candidates wanting to communicate with potential voters.

- 7. With the announcement on 20th March, 2013 that the date of Elections will be 11th May, 2013, the potential role of media is likely to increase in terms of weightage because of the relatively short period available for campaigning after the process of scrutiny of nomination papers of candidates, appeals, etc. is completed.
- 8. This short time-frame places an onerous responsibility on the news media and on all related organizations and institutions to ensure that Codes, Guidelines, legallymandated standards and any or all of the Recommendations of this Commission accepted by the Hon'ble Court and/or the Election Commission of Pakistan are faithfully fulfilled.

- 9. Despite low literacy, high poverty and other negative factors, media in Pakistan in general and news media in particular over the past 65 years since the birth of this nation-State have rendered a pivotal role in the country's development and progress.
- 10. The independent Press has suffered oppressive laws and discriminatory policies and yet has sustained bold and courageous journalism to inform and educate the people on issues of public interest.
- 11. While electronic media such as Radio and TV were Stateowned and Government-controlled monopolies for over 50 years, they too rendered a valuable role in educating the people and raising awareness on aspects of social, cultural and economic development. These media also produced several outstanding drama, music and entertainment programmes which were highly popular in Pakistan and overseas. They trained a large number of professionals in electronic media. However, due to their Government control, entities such as PTV, PBC and APP have almost always -- except for brief phases at different times – been mouthpieces of the Government-of-the-day and have relatively low credibility in their news and current affairs programmes.
- 12. With the advent of privately-owned Radio and TV channels onwards of 2000-2002, the over-all media landscape of Pakistan has been transformed. Citizens have a wide range of choice in sources for news, entertainment, education, religious subjects, sports etc. both from Pakistani sources and overseas sources.
- The privately-owned Press of Pakistan has enhanced and extended its vigorous use of freedom of expression in the past 12 years.

- 14. Together, private print and electronic media have extended pluralism and freedom of choice, have created thousands of new employment opportunities, have provided on-the-job training and skills' development to thousands of Pakistanis.
- 15. Media have also fostered a new environment of open, candid debate, of a new level of awareness, colorful entertainment and of enjoyment.
- 16. Yet TV news channels in particular, tend to focus excessively on bad news and use a hyped-up approach that is loud and hysterical, and often imbalanced. The aggressive intrusion of commercial advertising into programme content marked by frequent, prolonged and disruptive mid-breaks distracts attention and prevents continuity and coherence in discourse.

The ad nauseum repetition of "Breaking News", particularly where such spoken and written headlines deal with incidents of violence and bloodshed are vicarious and offensive with a traumatizing impact on children and young people. Adults as well find such an approach to the presentation of news to be disregardful and insensitive to viewers and listeners.

- 17. As a consequence of the eruption of terrorism post-9/11, while the country itself is a prime victim of the fall-out from unilateral intervention by foreign countries in the region, and the victims of weak, internal governance, news media have been afflicted with unprecedented human losses and injuries.
- 18. Pakistan is regrettably rated as the second, or sometimes even the first, most dangerous country in the world for working journalists.
- 19. Viewed from a global, especially a Western perspective, despite the proliferation of the electronic media in the past 12

years and despite the continued robustness of print media, Pakistan ranks relatively low on an international index of media such as the Freedom House, USA. This anomaly exists because of deficiencies in the regulatory dimension of electronic media as well as in the roles of State and Government in operating electronic media and in controlling the allocation of advertising, as also due to the absence of enlightened legislation to facilitate easy access to information by citizens.

- 20. The standards of impartiality and independence are highly desirable benchmarks towards which all possible efforts should be devoted by media themselves and by institutions/organizations tasked with the responsibility to monitor these ideal standards.
- 21. At the same time, the fundamental right of citizens and of media to exercise freedom of expression inevitably involves the exercise of judgment and the statement of opinions that convey subjective, individual perspectives or convey institutional affinities.
- 22. There is one specific part of the content of the news media, be they print media or electronic media which should, in theory if not in practice as well, be completely **fact-based**, and without any subjective dimension.
- 23. These are news bulletins on TV channels and news reports in print media.
- 24. In recent years in Pakistan, particularly with the advent of private electronic media, a new form of content has been introduced into news bulletins as also in news media in general. This new content is covered by the term: **"infotainment"**. This term describes a form of content which combines fact-based material with elements such as music, satirical or humorous or

critical words and phrases that are presented along with the news item itself.

- 25. Infotainment is predominantly **subjective**, not objective; **partial**, not impartial. While the media projecting such content may be "independent", the sheer act of combining pure, factbased news content with entirely subjective elements distracts from focus on the facts and also erodes the ideal of "independence". Even when, during an election phase, **all** the principal candidates or political parties are satirically or humorously covered through items of infotainment, the simple injection of subjectivity into the content of news bulletins deprives the concerned media of the credibility of being truly "independent".
- 26. During the Elections phase in particular, the sanctity of the factbased content of news bulletins needs to be strictly respected and enforced. Any use of infotainment elements during news bulletins would always be potentially, if not actually, at the expense of the candidates or the political parties being portrayed in those infotainment-based news bulletins.

This vital distinction between pure news and subjective opinions is a globally recognized and practiced principle. For example, Guideline No.8.2 in the document titled: "Reporting Elections: Broadcast Guidelines" issued by four reputed international forums such as UNESCO, Reuter Foundation, Index for Free Expression and Article 19 states, in part: "All broadcasters should endeavour to clearly identify editorial opinion **and to avoid airing it during news programmes**".

It is deeply regrettable that, in the past several years, this line of demarcation is violated every day by broadcast media in Pakistan.

Even in print media, adjectives conveying opinions are sometimes made part of headlines and the text of news reports. While it is sometimes necessary to use some adjectives e.g. "negligence" while reporting a tragedy caused by incompetence, the principle of separation between news and comment should be respected.

- 27. The purity of fact-based news bulletins on TV channels and radio channels should be enforced by the relevant oversight authorities i.e. through self-regulation, collective representative bodies, civil society forums, State institutions such as the Election Commission of Pakistan, etc. News media should then be freely able to exercise freedom of expression in satirical programmes, opinion shows or features or editorials, etc. but even in such programmes, the principle of even-handedness should be ensured.
- 28. While reiterating the standards of impartiality and independence as the ideal benchmarks for news media during Elections 2013, it is equally necessary to ensure that in the content of news bulletins on electronic media and in news reports in print media, the values of **fairness** and **balance** be rigorously pursued and enforced.
- 29. With reference to the section in this Report titled "Categories of normal content in news media": there are **thirteen** different types of normal content of TV channels; **thirteen** different types of content of Radio channels, **nine** different types of content in printed newspapers and magazines, **eleven** different types of content in web-based/cell phone media.
- 30. The values of fairness and balance must apply to all these types of content in all three categories with exceptions only in respect of the need to make allowances for the nature of some items e.g. a cartoon normally represents humour and/or makes fun of a

subject or figure. By itself, a cartoon cannot be "fair" and "balanced", except to abide by norms of taste and decency. But if a newspaper prints a notably large number of cartoons over a certain period of time, all of which make fun of only say, **one** political party or one candidate, then obviously even an item of content like cartoons can be used in an **unfair** and **imbalanced** manner.

31. Thus, applying reasonable standards of judgment as to what is fair and balanced, all the different types of content in TV, Radio and print media should actually be fair and balanced, so as to contribute towards ideal standards of "impartial and independent media".

Since 2000-2002 when the proliferation of private electronic news media commenced in Pakistan and now in 2013 when there are over two dozens TV news channels alone, viewers and listeners have the unprecedented freedom to choose which channel they wish to listen to or view. Therefore, if they find that a particular channel is projecting content with which they disagree, they have the opportunity to switch to other channels.

- 32. The interests of the proprietors of private media, be they print or electronic, and whether such interests are only related to the media enterprises or to their commercial interests in non-media sectors, impinge upon the capacity of the media to be truly "independent". Because the question arises as to whether privately-owned media which operate on a commercial basis can ever be truly "independent" of commercial and private business considerations.
- 33. In the case of the State-owned media which are Governmentcontrolled: During the Election phase, in which a Caretaker Government holds office and thereby determines the policies and practices of these State-owned media: It becomes vitally necessary to ensure that any residual, lingering effects of the same, State-owned media being controlled by the preceding

Government for five years does not have a subtle or distinct "carry-over" effect during the Elections phase in which the State-owned media, even more than privately-owned media, should be impartial and independent, fair and balanced.

- 34. Some of the negative aspects of the media that could have an adverse influence on the nature of coverage by media in Elections 2013 were said to be as follows:
 - (a) Lack of adequate training in the fundamentals of Journalism of those who presently occupy prominent positions on screen in electronic media e.g. as correspondents, TV anchors etc.
 - (b) Low salaries paid to some senior-level, mid-level and junior staff in certain media organizations in comparison to very high sums paid to TV anchors making staff at certain levels vulnerable to corruptive influence.
 - (c) In smaller towns and in rural areas, the claim is that local reporters/ "stringers" are paid no salary whatsoever, or only a token fee. Such persons are allegedly encouraged by media houses to misuse their "media cards" in order to generate income thus resulting in distorted and inaccurate content being fed to channels in large cities.
 - (d) Lop-sided and imbalanced coverage given to large cities and large Provinces at the expense of the two smaller but equally important Provinces such as Khyber-Pakhtoonkhwa and Balochistan.

Recommendations by the Media Commission for consideration by the Supreme Court to enable fulfillment of the aim described in TOR No.F i.e. "...... to ensure impartial and independent media for the upcoming elections."

The Commission submits that there are eleven modes and sectors by which actions can be taken to ensure impartial and independent media during the Elections 2013:

The Commission points out that the eleventh mode will require actions and measures going into the post-Elections 2013 phase to achieve conclusive aims.

Recommendation No. 1

<u>Through self-regulation by media organizations</u> <u>themselves</u>, by individual media proprietors, journalists, practitioners:

- a. The following representative bodies/organizations/corporations should be advised by the Election Commission of Pakistan to refine, practice and enforce their own **existing** Codes of Ethics:
- Either in part, or in whole, the Codes listed below include sections that are relevant to the roles of journalists, columnists, TV anchors, editors, news directors, programme producers, publishers and proprietors of print and broadcast media during elections as well.

For example, placed below are some excerpts from: The Code of Ethics of the Council of Pakistan Newspaper Editors (CPNE):

3. The Press shall avoid biased reporting or publication of unverified material, and avoid the expression of comments and

conjecture as established fact. Generalization based on the behavior of an individual or small number of individuals will be termed unethical.

16. The Press while publishing findings of opinion polls and surveys shall indicate the number of people, geographical area on which the polls and surveys were conducted and the identity of poll sponsor.

17. Any kind of privilege or inducement, financial or otherwise, which is likely to create conflict of interest and any inducement, offered to influence the performance of professional duties and is not compatible with the concept of reputable, independent and responsible press must be avoided.

The Code of Ethics of the Pakistan Broadcasters' Association (PBA)

1) Where individuals or groups are singled out for criticism, the programme should provide reasonable opportunity for a balancing response.

4.2) All efforts must be made by broadcasters and talk show moderators to correct error of fact at the earliest opportunity and to ensure that corrections brought expressly to their notice are broadcast to public.

The Code of Ethics of the Pakistan Federal Union of Journalists (PFUJ)

2. Whether [by] publication or suppression, the acceptance of a bribe by a journalist is one of the gravest professional offences.

11. (a member of PFUJ) should not falsify information or documents, or distort or misrepresent facts.

c. Even in the case of Advertisers and Advertising Agencies, it would be relevant for the Member-organizations of these two sectors to ensure that the contents of any advertising supported or sponsored, created or placed by them adheres to their own Codes with special reference to Elections 2013 and to ECP's guidelines.

The Code of Ethics of the Advertising Association of Pakistan (AAP)

3. To ensure that all advertising produced by its member agencies is legal, decent, honest and truthful.

XIV. To benefit the nation by harnessing advertising for the good of the country, its institutions, its citizens; to co-operate with the Government in promoting its social objectives and in the tasks of nation-building.

- d. Codes of Conduct which already exist are, broadly speaking, very appropriate and positive frameworks that define minimal norms and high ideals. However, in the past as well as in the present times, the **enforcement** dimension of these Codes has been either too weak to be effective. Or there has been no enforcement when violations have occurred. Neither media themselves nor their respective representative bodies nor the official regulatory bodies have taken firm, fair and prompt actions when they needed to be taken.
- e. During Elections in particular, it is important to protect freedom of expression but at the same time, through decisive and timely action, prevent misuse of freedom that is unfair to particular political parties or candidates.

The Commission welcomes the initiatives already taken by some of the above organizations and forums to formulate

and formally adopt Codes of Ethics and Conduct specifically for application in Elections 2013.

f. The Commission suggests that, to supplement and strengthen such collective efforts and others such as by the Pakistan Broadcasters Association in the process of self-regulation, each TV channel and each FM Radio channel should establish an "Internal Ombudsman" to enable the receipt of cases and complaints from the public at large, or by other associations, in order to facilitate timely internal scrutiny and corrective action.

To make such an **Internal Ombudsman** in each channel effective, announcements about this mechanism being made available especially with the commencement of the formal elections phase should be broadcast at least once every 24 hours in a reasonable duration and manner so that the public is duly informed of this facility and of how to convey complaints or observations for the consideration of the **Internal Ombudsman**.

g. Similarly, for the Elections phase in particular and on a permanent long-term basis as well, **each newspaper should establish an Internal Ombudsman** along the same lines i.e. with the publication of an announcement to inform readers of the introduction of this facility along with contact details.

One newspaper i.e. The Express Tribune did introduce its own Internal Ombudsman. The distinguished present Chief Election Commissioner lent his reputed name to this office by accepting to serve as this newspaper's Ombudsman. But the arrangement no longer exists, presumably because the Ombudsman accepted the high office of the Chief Election Commissioner in 2012.

In varying forms e.g. an Ombudsman, a Readers', Editor, etc.

the office of Internal Ombudsman does exist in several newspapers in Europe, Asia (India) and elsewhere.

- **Note:** It is necessary to record the obvious requirement that any person appointed to serve as an Internal Ombudsman in a TV channel, Radio channel or in a newspaper should be an individual of acknowledged/public stature who has the reputation and capacity to render an opinion on a complaint without being influenced by any consideration except for the facts and the truth.
- h. With regard to the self-regulation applied to the advertising dimension of electronic media content, it is strongly recommended that it is vital to ensure a level playing field during the Elections phase in respect of fair and equal costs charged by TV channels and Radio channels to different political parties and candidates.

This aspect is important because, to date, there is no public sharing of information by Radio channels and TV channels about the precise rates at which they sell their time to advertisers. Each channel determines its own rates on the basis of various business considerations.

As in normal times, but more so in the Elections phase, complete transparency of such data is a prerequisite to ensure that all parties and candidates that can afford to invest amounts in advertising have a fair and equal opportunity to purchase time in electronic media.

The Commission noted with pleasure that the office-holders of the Pakistan Broadcasters' Association themselves proposed and endorsed the concept of placing on the website of PBA the exact rates to be charged by each channel for different durations of advertising spots and for different types of content that can be aired on a commercial basis, as is the commendable practice in some other countries.

The Commission recommends that this measure be implemented with immediate effect.

- i. Detailed reference should also be made by all self-regulatory organizations in Pakistan to internationally-recommended guidelines and values as appended below, from reputed foreign/global institutions and from individual countries such as Britain. These overseas sources offer detailed measures and suggestions based on extensive experience of the inter-action between media and elections.
- j. By a fortuitous coincidence, one of the most respected global public broadcasters i.e. the BBC, has approved, as recently as 7th March, 2013 a document titled: "Election Guidelines for May 2013" to cover local government elections in England and Wales on 2nd May, 2013. These Guidelines are an extremely timely and pertinent point of reference for electronic media in Pakistan and for review by the Election Commission of Pakistan.

Codes of Ethics/Conduct of the following bodies are placed at

Annexure "C":

- 1. All Pakistan Newspapers Society (APNS)
- 2. Council of Pakistan Newspaper Editors (CPNE)
- 3. Pakistan Federal Union of Journalists (PFUJ)
- 4. Pakistan Television Corporation (PTV)
- 5. Pakistan Broadcasting Corporation (PBC)

- 6. Pakistan Electronic Media Regulatory Authority (PEMRA)
- 7. Pakistan Broadcasters' Association (PBA)
- 8. Press Council of Pakistan (PCP)
- 9. Pakistan Coalition for Ethical Journalism (PCEJ)
- 10. Pakistan Advertisers' Society (PAS)
- 11. Advertising Association of Pakistan (AAP).
- 12. Reporting Elections: Broadcast Guidelines (by Article 19, Index, Reuter Foundation, UNESCO).
- 13. Great Britain's Electoral Commission's Media Handbook.
- 14. BBC's Electoral Values
- 15. BBC's Election Guidelines for May 2013.
- Note: While the long-established news agencies such as the Government-controlled APP and the privately-owned, partially publicly-funded PPI have their own internal Codes, other news agencies established in recent years are also obliged to practice professional principles. Similarly, "media buying" houses, a new kind of private entity which purchases media time and space in bulk for one or more clients are also bound by their respective internal corporate codes of ethical conduct.

The Cable TV Operators Association of Pakistan is also obligated by its stated aims and objects to abide by the law, rules and norms.

<u>Through oversight by the Election Commission of</u> <u>Pakistan:</u>

- a. It is recommended that the ECP invite Chief Executives/Chairpersons/Proprietors of all TV channels and Radio channels to a meeting in Islamabad to convey directly to them in person ECP's Code of Media Conduct for Elections 2013 and ECP's Guidelines so that the senior-most decision-makers and policy-makers of private electronic media are informed about their personal responsibilities and their individual accountability for the content of electronic media during the formal Elections phase.
- b. **ECP should strictly enforce its own Codes**, Rules, Guidelines etc. which should include definitions, parameters, amplifications etc.
- c. ECP should engage the professional services of independent firms which normally monitor private electronic media on behalf of commercial advertisers, to report to ECP on a daily/weekly basis with regard to the broadcast of political advertising by parties and candidates with special reference as to whether the limits and principles prescribed by ECP are being observed. There are two or three such commercial firms which track/conduct monitoring of broadcast content for the information and benefit of advertisers and advertising agencies.

Note: As past experience has shown, in its regulatory capacity, PEMRA has been unable to ensure enforcement of Rules in general for more than one reason. For instance, the speed with which certain TV channels that received Notices from PEMRA obtained Stay Orders from High Courts which prevent PEMRA from applying necessary measures, as also due to PEMRA's

own omissions in respect of lack of timely and decisive actions. This is why it would be pertinent and effective for ECP to take the required initiatives as above, with regard to electronic media.

With regard to the use of the legal process by which PEMRA's actions or omissions are challenged/delayed etc. the situation is as follows i.e. a total of 72 cases are pending, 70 of them in 2 High Courts, 1 in the Supreme Court, 1 in Muzaffarabad High Court. 45 cases are pending in the Sindh High Court, 20 in the Lahore High Court, 5 in the Islamabad High Court since 2009, 2010, 2011, 2012 and the first weeks of 2013.

- d. ECP should invite office-bearers of APNS and CPNE to a meeting with ECP in Islamabad to convey directly to them in person ECP's Code of Media Conduct for Elections 2013 and ECP's Guidelines so that the senior-most decision-makers and policy-makers of print media are informed about their personal responsibilities and their individual accountability for the content of print media during the formal Elections phase.
- e. ECP should require APNS to provide a weekly report of space sold/used by its Member-Publications to publish advertisements for political parties and candidates along with details of the rates charged for such space.
- f. **ECP should use its own in-house monitoring system** with the support of the Press Information Department/Ministry of Information and Broadcasting/Press Council of Pakistan, and the four Provincial Governments' Information Departments to monitor whether print media are practising their own Codes of Ethics and the Guidelines of ECP.
- g. **ECP should invite office-bearers of PFUJ, APNEC, PCEJ and other relevant bodies** e.g. Electronic Media Journalists Association, Lahore etc. to convey directly to them in person

ECP's Code of Media Conduct for Elections 2013 and ECP's Guidelines so that the working journalists in both print and electronic media are requested to practice their own Codes of Conduct and are informed about their personal responsibilities and their individual accountability for the content reported by them for projection by print and electronic media during the formal Elections phase.

One or more such meetings have reportedly already been held. ECP may wish to reinforce the process in case the Supreme Court accepts one or more of the Recommendations by the Media Commission concerning TOR No.F.

h. ECP may wish to consider a proposal to the effect that all candidates and political parties wishing to place advertising on a paid basis in newspapers, magazines, TV channels, Radio channels be mandatorily required to do so only through a specially-created Political Advertising Cell in ECP itself.

> This proposed Cell should have the power to decline booking or advertising in media if it exceeds the limits of expenditure prescribed by ECP.

> If such a proposal is accepted, ECP may use its own facilities to conduct such coordination work between candidates and media. Or ECP may requisition the already existing facilities and country-wide infrastructure for such coordination in the form of the Press Information Department of the Federal Ministry of Information and Broadcasting and the Information Departments of the four Provincial Governments.

> Thus, all media would receive requests/orders for political advertising through this Cell in ECP and would, in turn, provide invoices to ECP to obtain payment for such advertising, in advance, or within the specified period.

Such a proposed Cell would ensure that ECP remains fully informed on the precise space/time being used for political advertising in mass media by candidates and parties and the exact charges being applied by print media and electronic media. Such co-ordination of information would ensure a level playing field for all parties and candidates and conform to the principles of complete transparency and accountability.

To ensure instant public knowledge of the identities of those firms or individuals responsible for creating/placing political advertising of a defamatory or offensive nature, it should be compulsory for all advertising in print media to include the name of the advertising agency or other organization connected with the placement of the said advertisement. Such public knowledge of alignments between candidates, political parties and commercial firms would strengthen the principle of transparency.

This proposed Cell-methodology would be superior to the conventional methods of obtaining expenditure statements from parties and candidates on a post-facto basis i.e. **after** the Elections. This proposed methodology would also prevent the malpractice of discriminatory rates for space and time that could be charged by media in favour of some parties and candidates and to the disadvantage of other parties and candidates, data about which ECP would normally remain uninformed because media, specially TV channels and radio channels can, and do vary their rates from time to time, and from client to client.

Even if PBA implements its laudable intention referred to earlier in their Report in Recommendation No.1 (h) to publicly share data about exact rates to be charged for political/normal advertising, this proposed routing of all political advertising on mass media through ECP would guarantee total transparency and a level playing field.

Through civil society networks:

- a. Monitoring of the pre-Election phase is already being conducted by reputed civil society networks and associations such as the Free and Fair Election Network (FAFEN) whose members include several NGOs with extensive contacts amongst communities in all four Provinces.
- b. FAFEN has already announced that with its member organizations and the co-operation of citizens on a voluntary basis, as many as about **43,000 persons** will monitor local, constituency-level activities related to campaigns by political parties and candidates. This co-operative arrangement will enable accurate monitoring of **non-mass media promotion** such as posters, banners, leaflets, stickers, etc.
- c. These civil society networks will also enable monitoring of the in-house "CD" TV channels that are operated by virtually each of the over 3159 cable TV distributors licensed by PEMRA.

Whereas PEMRA has, as of February 2013, issued licenses to 89 satellite TV channels (34 news channels of which 27 are actually presently broadcasting, the remaining number i.e. 55 channels being entertainment, sports, other categories etc. 26 foreign channels have been given licences for 'landing rights' i.e. permission to be distributed and viewed in Pakistan). PEMRA has also issued licences to 171 FM Radio channels including commercial and university campus channels.

But, the actual total number of TV channels operating in **Pakistan amount to over 15,000**----- because each Cable TV Operator/Distributor has permission to operate four or five "CD" TV channels on which the Operator screens mostly

pirated films from Bollywood, Hollywood or legally-obtained content and advertising !

- d. However, by monitoring the "Head-end" cable TV distributors who re-distribute satellite TV signals to several "Loop" holders /"line"-holders, the logistical task can be reduced in scale.
- e. The Commission recommends that ECP encourage credible civil society networks to help strengthen the role of impartial and independent media in Elections 2013.

Through official regulation:

- a. In the case of electronic media, PEMRA has a three-fold responsibility whose fulfillment should be overseen by ECP.
 - (a) To ensure that license-holders of satellite TV channels abide by the terms on which licenses have been issued to them, failing which action should be promptly taken as per the law and rules.
 - (b) To exercise special vigilance during the formal Election phase to monitor whether the Code of Ethics/Code of Media Conduct declared by ECP are being respected and practiced by electronic media and to report promptly to ECP when any violation occurs.
 - (c) To sensitize the 3159 plus Cable TV Distributors/Operators to the Code of Ethics/Code of Media Content declared by ECP and to ensure that any content in satellite TV channels and on their own CD TV channels conforms to the defined best practices.
- b. In the case of print media, the Press Council of Pakistan and the Ministry of Information and Broadcasting of the Caretaker Government have a special responsibility to monitor news content and advertising content in newspapers and magazines so as to keep ECP informed on a timely basis in case any violation of Codes are committed by print media. Both these entities should be so informed by ECP.

For Internet-based media, through official regulation and non-official cooperation:

- a. Whereas the total circulation of daily newspapers in Pakistan is not estimated to exceed 1.5 million copies with a readership of about 7 to 8 million people in a population of over 180 million, Internet users are presently estimated to be between 25 to 30 million people i.e. about treble the number of persons reading printed newspapers every day. A sizable number of the 25-30 million Internet users are estimated to be regular visitors to the websites of printed newspapers, TV channels and Radio channels.
- In such web-based versions of other media and in the case of other social media on the Internet, the Ministry of Information Technology and the Pakistan Telecommunication Authority share the responsibility to ensure that, without curbing the freedom of expression which already exists in abundance --- ! --- on the websites and blogs accessed by Pakistani voters, minimal standards are observed of fairness and balance, taste and decency, integrity and impartiality.
- c. However, enforcement in social media is possibly the most difficult form of enforcement because of the open-ended, seamless nature of the Internet. In extreme cases, access to sources such as parts of, or the whole of Youtube can be banned outright. But complete bans on universally-used sources such as Youtube are unfair and ill-advised. Pakistan needs to co-ordinate with Youtube management to agree upon procedures required for blocking access to specific content on Youtube which is, for instance, deliberately insulting or abusive of religious beliefs.

- d. While it is hoped that no extreme provocation is unleashed on the Internet from any source outside or inside Pakistan inciting excessive reaction on the regulatory-front, it is **recommended that ECP invite the following official and non-official bodies** to sensitize them to their respective responsibilities regarding the role of content on the Internet and about the need to ensure that such content **facilitates** rather than prevents the conduct of free and fair elections:
- 1. Ministry of Information Technology
- 2. PTA
- 3. Digital Rights Foundation http://digitalrightsfoundation.pk Nighat Dad
- 4. Bolo Bhi www.bolobhi.org Sana Saleem, Farieha Aziz
- 5. P@SHA www.pasha.org.pk Naseer Akhtar (Chairman) Jehan Ara (President)
- 6. ISPAK (Internet service providers' association) http://www.ispak.pk/ Wahaj us Siraj
- 7. Bytes for All, Pakistan
 http://content.bytesforall.pk/
 Shahzad Ahmed
- 8. ISOC Internet Society.
- 9. Take Back the Tech... project of APC (Association of Progressive Communications) http://www.apc.org/
- 10. Blogap (Bloggers Association of Pakistan) http://groups.google.com/group/blogap/t/ Faisal Kapadia
- DBTB (Don't block the blog) www.dbtb.org
 Dr. Awab Alvi
- 12. PressPakistan presspakistan.googlegroups.com
- 13. Any other similar forums.

<u>Through ECP directives to State-owned media and organizations:</u>

- a. State-owned PBC and PTV do not come within the purview of PEMRA. They are governed respectively, by the PBC Act, 1973 and the Companies Ordinance, 1984.
- Even though a non-partisan Caretaker Government will be in office during the Elections 2013 phase and therefore is expected to direct PBC and PTV to ensure non-partisan and impartial coverage of political content, it would be helpful for ECP to also issue its own directives to PBC and PTV to remind them that they are also subject to the Code of Conduct/Code of Media Content declared by ECP.
- c. While APP is not, by itself a mass medium, it is the largest news agency of Pakistan and is a State-owned entity. During the tenure of the Caretaker Government it is also obliged to be non-partisan and impartial in reporting and in analysis of all Election activities without favouring any political party or candidate. Nevertheless, it is recommended that ECP issue a directive to APP (and to all news agencies) to strictly abide by the relevant Code of Conduct.

<u>Through a policy of vigilance practiced by the Caretaker</u> <u>Government:</u>

- a. During its short yet significant tenure, the Caretaker Government has a formidable responsibility. In conditions of poor governance and frequent incidents of violence and terrorism, the Caretaker Governments at the Federal level and four Provincial levels have to ensure stable and secure conditions that will enable the conduct of free and fair elections in a peaceful manner.
- b. The tragic, callous killings of working journalists in Pakistan in recent years, the terrible injuries and losses suffered by such journalists and their families and the environment of intimidation and threats that journalists and media houses are continuously exposed to in many parts of both urban and rural areas: in such times, the Caretaker Governments' foremost responsibility becomes to enforce conditions of security and safety for all citizens, with special measures for journalists and media units in the field because it is the media that bring the vital information instantly, or soonest possible, to the attention of the people and of all the Governments.
- c. In supporting the work of the Election Commission of Pakistan, the Caretaker Governments are obliged to apply extraordinary vigilance to anticipate dangers and threats to journalists and media units and media houses and to take preemptive measures whenever possible on a timely basis, to prevent the occurrence of violence against journalists and media units.
- d. **No effort should be spared by the Caretaker Governments** at the Federal level and at all four Provincial levels to make

available the required facilities, financial resources etc. to fulfill this particular responsibility.

e. The Commission welcomes the Report published on 21st March, 2013 that the Council of Pakistan Newspaper Editors (CPNE) has decided to establish a Security Committee to provide new and special arrangements and support mechanism for the safety and security of working journalists as such innovations will be of timely relevance during the elections phase.

<u>Through the policies and actions of political parties and candidates:</u>

- a. As the principal participants and protagonists in the Elections phase, the political parties of the country and the several hundreds of candidates seeking votes during the campaign phase have a legal obligation to abide by the terms and conditions prescribed by the ECP with regard to the expenditure on advertising in media, with regard to their interactions with media when they make statements, or give interviews or participate in broadcast programmes etc.
- b. Political parties and candidates contesting in the Elections 2013 have already gone through unprecedented scrutiny of their assets, internal party elections, past and present financial conditions, etc.
- c. Yet they continue to face the challenge that, during the heat and pressure inevitably generated by the competitive and often closely contested nature of election campaigns, **their interactions with the media in all respects should remain within the defined limits and be of the highest standards of probity and decency.**
- d. A solemn responsibility, therefore, rests upon all political parties and candidates with regard to how they interact with the media in terms of conducting their electoral campaign activities and briefing media or facilitating media to provide coverage to such activities as well as in their financial dealings with the media concerning expenditure on advertising.

<u>Through activism by readers, viewers, listeners as media</u> <u>audiences:</u>

- a. In one of the preceding sections of these Recommendations i.e. Section 3 "Through civil society networks", we have noted and recommended that the non-official associations which already exist in Pakistan that have been engaged in advocacy and capacity-building work to promote democratic values and practices and to enhance electoral participation have a specific role to render in Elections 2013 towards helping media to be impartial and independent.
- b. In this section, the aim is to focus attention on the principle that citizens at large, in their capacity as audiences for the content projected by media, also have an obligation to fulfill.
- c. Instead of being only passive recipients of content directed at them by mass media, citizens have both the opportunity and the responsibility to monitor media content, to take notice of threats against journalists and media and thus broaden and deepen public participation in the shared task of ensuring that media are able to be truly impartial and independent.
- d. Whereas the role identified in Section 3 for civil society networks is on an institutional and organizational level, the role and responsibility focused on in this section is on the individual, the family and the group level of our society and of the body of voters.
- Activism by citizens on media-related issues has been relatively limited in Pakistan. For example, in December, 1997, the Citizens' Media Commission of Pakistan became the first such network to be established. Using private and

philanthropic resources, this initiative was sustained for about eight years following which a few other initiatives have also developed. However, there is vast, unexplored potential for citizens' activism in monitoring media content, and to bringing to the attention of the media, instances where the values of fairness and balance have been violated. With particular reference to Elections 2013, there is a need to provide a genuine citizens' perspective, unaffected by partisan considerations, on the areas of concern covered by TOR No.F.

e. In evaluating the authenticity of any media monitoring contributed by citizens and media audiences, due care should be taken to verify as to whether some elements with partisan interests and aims are covertly using the façade of the name of "citizens" to project the impression of a genuine "citizens" response to media content. For example, there is the use of covertly-organized letter writing or pre-planned expression of opinion and protests by a camouflaged group to create the misleading impression of large-scale "popular" opinion. Whereas those behind creating such misleading impressions may be only a handful of persons.

<u>Through international observers and overseas</u> organizations:

- a. In keeping with well-established global practices also accepted by the Government of Pakistan and the Election Commission of Pakistan and as applied during several general elections held in the past three decades, international organizations such as the European Union, the Inter-Parliamentary Union, SAARC, and other institutions with a specialized focus on the conduct of elections, have monitored and observed the election process in the country and have published detailed reports and documents.
- b. In several respects, such reports by overseas observers have helped to pinpoint malpractices including attempts at pre-poll rigging and irregularities during polling itself.
- c. Such past reports have also included observations on how media have rendered their own role in elections.
- d. In Elections 2013 as well, overseas forums which are permitted by the Government of Pakistan and ECP to visit various parts of the country to monitor all phases of the process and to take an overall view of the conditions **will, by their presence, be able to render a credible opinion on whether media** have played an impartial and independent role.
- e. Their presence, known in advance to media and to those elements that may wish to prevent media from rendering a due role, will serve as a positive deterrent against any disruptive threat and become a contributory factor for a supportive role by media in Elections 2013.

Recommendation No. 11

<u>Through detailed, forensic audit and investigation which is</u> <u>likely to go beyond the Elections phase:</u>

- i. In the context of a completely transformed media sector which, despite its low international ranking, is widely seen by the people of Pakistan as a reflection of extraordinary new freedom and vibrancy, it is unfortunate that the Commission is obliged to consider the issues of media-related corruption.
- ii. In doing so, the Commission is taking note of the several allegations and statements about media-related corruption contained in the petitions considered by the Hon'ble Supreme Court which then appointed this Commission to study the aspect of media-related corruption as part of the nine Terms of Reference (TORs) given to the Commission.
- iii. On the basis of questions posed to the representatives of different sectors associated with media in Pakistan, a contrasting set of responses was received.
- Officials of the Federal and Provincial Governments and of all Government-controlled entities did **not** accept that corrupt practices exist in their respective institutions or departments. They stated that when and if corrupt acts occur in their domains, these are promptly taken notice of, and punitive and corrective action is taken.
- v. In contrast, virtually every single office-bearer of the representative bodies of the private media as well as individual media specialists, journalists, broadcasters, media entrepreneurs, members of civil society and senior representatives of leading political parties **stated that corrupt practices do occur in inter-actions between Government**

and media, between the private sector and private media, and inside both private and State-owned electronic media. Further, that virtually no punitive, corrective action is taken by Government or by regulatory bodies or by representative bodies of private media and of journalists.

- vi. It was stated that corrupt practices exist in a variety of forms and that most of such practices are obviously difficult to prove with speed and ease, but that they do exist.
- vii. It was claimed by the non-official persons that the State-owned and Government-controlled media institutions and organizations, ranging from the Press Information Department and the Audit Bureau of Circulation under the Ministry of Information and Broadcasting to Pakistan Television Corporation, from all the Provincial Departments of Information to APP were all parts of the broad, corruptive process.
- viii. Representatives of civil society and of journalists stressed that the very presence of the State and Government in the media sector was itself a fundamentally corruptive act because the coercive resources of the State were/are being used to benefit either the ruling political parties and public office-holders, or Government officials at various levels.
- ix. It is claimed by some that in the inter-action between Government institutions, journalists and private media houses, secret funds are used in a corruptive manner to influence media content.

Note: It is necessary to stress at this point that the term "secret funds" has sometimes been incorrectly applied and used, resulting in a misrepresentation of the facts. For example, the annual grant given by the Federal Government through the

Ministry of Information and Broadcasting to Pakistan Broadcasting Corporation Limited (PBC) amounting to over Rs.2 billion was/is perhaps inadvertently included in the classification of "secret funds". Similarly, grants given to PTV for development projects and APP as grant-in-aid and a research organization, are also incorrectly/inappropriately placed under "secret funds". Whereas most of such grants are itemized in the Annual Budget and are publicly declared grants which are the subject of audit each year by the Auditor-General of Pakistan.

x. The viewpoint of the Federal Ministry of Information and Broadcasting about this subject of secret funds is reproduced as under:

(Quote)

<u>"Secret Service Expenditure in I&B</u>

a. Factually it is not <u>"Secret"</u> in terms of usage and operations both. Instead it is a <u>Supportive and</u> <u>Promotional Fund</u>, the expenditure of which is supervised by the Principal Accounting Officer (PAO) of the Ministry as per below listed legal citations. The main advantage of the fund is that prompt action with reasonable justification is taken to address urgent media issues – making its end result-based operations non-auditable. However, a quarterly certificate of expenditure is recorded by PAO, certifying the expenditure incurred in the public interest.

Legal Citations

b. The following set of laws and regulations of the land are adduced to legally establish the operations of SSE/SPF :-

> i. The secret service expenditure is protected under **Annual Finance Act (herein 2012-13).** It is

governed by Article 73-75 of the Constitution, 1973 – which lays down detailed procedure concerning a Money Bill passed by the Parliament, and assented by the President, of which SSE / SPF are written part.

ii. It is explained in Finance Division's Budget Document (Pages 1230-1231) under following Accounting Codes :

- <u>Special Publicity Fund</u> SPF: ID-1357 : Rs. 100 million
- <u>Secret Service Expenditure</u> SSE : ID – 1358 : Rs. 10.20 million
- <u>(For a Regional Research Organization)</u> ID-1363 : Rs. 30.10 million

iii. Article 19 – A of the Constitution of 1973 demarcates Right to Information (RTI) Framework as under:-

"Every citizen shall have the right to have access to information in all matters of public importance **subject to regulations and reasonable restrictions imposed by law".**

iv. It obviously means that Framers of Article 19

A did have in their mind enforcement of subordinate regulations and restrictions to logically govern Right to Information (RTI) privileges (herein access to information on SSE / SPF operations)".

(Unquote)

Thus, excluding the grant given to a research organization, the total present annual "secret fund" amounts to Rs.110.20 million, and not "billions of rupees" as is sometimes alleged.

- xi. The Commission is of the opinion that:
 - (a) The allocation of sums under the Head "secret funds" is done as per the law.
 - (b) That said, the use of secret funds , particularly in the realm of media and information can only be justifiable if it meets extremely crucial and unavoidable needs from the perspective of national security. The application of the "national security" or "public interest" perspective to the use of secret funds should be subject to scrutiny and approval by a forum such as the Parliamentary Committees on Information and Broadcasting.
- xii. In a de facto sense, any discriminatory allocation of advertising contracts of Government-controlled entities to advertising agencies and media is prone to being misused as a "non-secret" method to potentially achieve "secret" objectives !

(end of Note)

- xiii. It is stated that the selection of advertising agencies to create and place Government advertising in media is marked by corrupt practices to favour one, or a few agencies, at the expense of all others. That influence is extended from some of the highest levels of State office to favour individuals who enjoy specially close relations with such holders of high public office.
- xiv. It was also said that in the placement of advertising in media, in the invoicing process and in payments, some documents are fabricated and other malpractices are used to achieve corrupt aims.

- xv. That such corrupt practices include under-the-table, up-front payments made in advance to secure such advertising contracts from Government entities.
- xvi. It is said by non-officials that the budgets for advertising by various Government organizations increased disproportionately in the period between 2008 and 2013 with the intent of manipulating documents, procedures and payments in such a way so as to channel substantial sums to secret, private political campaign funds which will be used in the Elections 2013 phase.

Whereas Government representatives ascribed reasons for the increase to the simple need to inform the public about new projects and programmes for the welfare of people and for national development.

For instance, as per the data provided by the Pakistan Broadcasters' Association to the Commission, total expenditure on advertising on TV and FM Radio channels by Governmentcontrolled entities reflected increases, in individual cases, of between 5 percent to 30 percent while the composite figures given by PBA are as below:

-	2006-07	Rs.1.52 Billion
-	2007-08	Rs.1.51 Billion
-	2008-09	Rs.1.41 Billion
-	2009-10	Rs.2.08 Billion
-	2010-11	Rs.2.09 Billion
-	2011-12	Rs.2.04 Billion

It is notable that, whereas the rates charged by print media for Government advertising are notably lower than the rates charged for private commercial advertising, in the case of electronic media, the rates charged for advertising by Government-controlled entities is often significantly **higher** than the rates charged for commercial advertising by private firms.

- xvii. It was claimed that relevant persons in print and electronic media including some proprietors, editors, news directors, TV anchors, producers etc. have already been persuaded by material, illicit means to extend covert support to certain parties and candidates.
- xviii. It was also stated that certain large private enterprises e.g. one or more firms in the construction and housing sector, use their vast financial resources to inhibit and discourage private media from presenting independent critical analysis of the vested interests of such private firms due to the volume of advertising time and space bought by such firms, which bring financial benefit to proprietors of print and broadcast media.
- xix. Some prominent persons in public life who appeared before the Commission were of the view that irresponsibility and malice on the part of some media persons is also a form of corruption. They complained bitterly about the slander and defamation they have faced both through incorrect, unverified reports published in certain newspapers and through unfounded allegations made by certain TV anchors. They emphasized that if they were to file cases in court to seek damages and justice, the legal process would take several years and require high Retractions and corrections by media, financial costs. especially by TV channels is virtually non-existent. The Councils of Complaints under the PEMRA law are slow and ineffective. They called for independent mechanisms to hold errant media accountable in a prompt and effective manner.
- xx. In this particular Report which focuses only on TOR No.F, the Commission has deliberately restricted most of its

Observations and all of its Recommendations to the relationship between media and Elections 2013. The Commission will deal with non-election-related aspects of corruption in the second part of its Report which will deal with the remaining eight TORs.

- As stated elsewhere in this Report i.e. in para no.4 of the section xxi. titled: "Working methods used by the Commission", the scale, nature and complexity of the different types of media-related corruption require the application of specialized, professional investigative skills preferably by independent, non-official specialized firms of auditors, etc., backed by adequate resources, the force of law and other legal means to obtain all related documents, examine/cross-examine both those making allegations and those who are the subject of the allegations in order to determine the veracity of the allegations. The Commission does not possess such required resources or the time before the deadline/s and therefore decided to meet with every relevant sector associated with media, and with particular individuals to make preliminary observations and recommendations to the Hon'ble Supreme Court.
- xxii. The Commission is of the opinion that sufficient grounds exist for forensic audits and detailed investigations of several transactions and aspects referred to in the petitions admitted by the Court and aspects of media- related corruption in this Report.

(End of Report on TOR No.F)

Executive Summary of the Recommendations by the Media Commission constituted by the Supreme Court on on 15th January, 2013

- A Bench of the Supreme Court of Pakistan comprising Mr. Justice Jawwad S. Khawaja and Mr. Justice Khilji Arif Hussain, deliberating on various Constitutional petitions appointed a Media Commission comprising Mr. Justice (R) Nasir Aslam Zahid as Chairman and former Senator Mr. Javed Jabbar as Member.
- In its Order, the Bench of the Supreme Court defined nine (9) Terms of Reference (TORs) for the Commission. Accepting its task, the Commission stated that the nine TORs are wideranging and comprehensive in scope.
- Rendering their work for the Commission on an honorary basis alongwith the Secretary of the Commission, Mr. Salim Gul Shaikh who also serves on an honorary basis, the Commission commenced formal hearings and interviews in Karachi on 7th February, 2013.
- 4. **Between 7th February, 2013 and 18th March, 2013,** the Commission met with over 165 persons from over 80 organizations in Islamabad, Karachi, Lahore, Peshawar and Quetta. These included the then-Federal Information Minister and the Federal Information Secretary, Secretaries and senior officials of the Federal and four Provincial Governments, senior leaders of some major political parties, office-bearers of all relevant media organizations and their representative bodies, activists of civil society and social media, and persons who responded to the public notices published in newspapers by the Commission to invite contributions by citizens.

- 5. The Commission was of the view that, given the imminence of Elections in May 2013, it would not be possible in the short time available, to conclusively investigate and study all the nine TORs by the initial deadline of 31st March, 2013.
- 6. However, as TOR No.F was directly concerned with the role of the media in Elections, the Commission decided to compile and submit its Report to the Court in two phases i.e. Part-I dealing with TOR No.F to be submitted by about 21st March, 2013 and Part-II dealing with the remaining eight (8) TORs to be submitted on or before 31st May, 2013, subject to approval by the Court of the extended deadline beyond 31st March, 2013.
- 7. With regard to the first part of TOR No.F i.e. *"To enquire into allegations of media-related corruption"*, the Commission is of the opinion that sufficient grounds exist to confirm that media-related corruption is prevalent in different forms and in several facets of the media sector. Such corruption involves Government-administered and/or controlled entities, State-owned media, the private media and the private sector, including the advertising sector.
- 8. The Commission appreciated the positive attitude and constructive approaches to the need to curb media-related corruption expressed by all stakeholders, including the Federal and Provincial Governments, All Pakistan Newspapers Society (APNS), Council of Pakistan Newspaper Editors (CPNE), Pakistan Federal Union of Journalists (PFUJ), Pakistan Television Corporation (PTC), Pakistan Broadcasting Corporation (PBC), Pakistan Electronic Media Regulatory Authority (PEMRA), Pakistan Broadcasters Association (PBA), Press Council of Pakistan (PCP), Pakistan Coalition for Ethical Journalism (PCEJ), Pakistan Advertisers' Society (PAS), Advertising Association of Pakistan (AAP), Cable TV Operators Association and others.

- 9. The Commission suggests to the Court that sufficient grounds exist for forensic audits and detailed investigations of several transactions and aspects referred to in the petitions admitted by the Court and about aspects of media-related corruption cited in this Report.
- 10. In the eleventh mode of its Recommendations, the Commission recommends that forensic audit and investigation be conducted during the next few weeks/months to arrive at conclusive findings with regard to specific cases of media-related corruption. The Commission is of the opinion that such investigation cannot be completed before 31st March, 2013 i.e. the initial deadline given to the Commission.
- 11. With regard to the second part of TOR No.F i.e. "to...... suggest steps to ensure impartial and independent media for the upcoming elections", the Commission makes a total of 21 Recommendations in the following ten (10) different modes/segments which can be, if endorsed, implemented with immediate effect at the advent of the Elections phase:
 - i. Through self-regulation by media organizations themselves, by individual media proprietors, journalists, practitioners:
 - ii. Through oversight by the Election Commission of Pakistan:
 - iii. Through civil society networks:
 - iv. Through official regulation:
 - v. For Internet-based media, through official regulation and non-official cooperation:

- vi. Through ECP directives to State-owned media and organizations:
- vii. Through a policy of vigilance practiced by the Caretaker Government:
- viii. Through the policies and actions of political parties and candidates:
- ix. Through activism by readers, viewers, listeners as media audiences:
- x. Through international observers and overseas organizations.
- 12. In view of the announcement that the Elections will be held on 11th May, 2013, the Commission stresses the **urgency** for the Court to review the Recommendations and after it has formulated its opinion about these Recommendations, to forward some, or all to the concerned stake-holders and to the Election Commission of Pakistan for immediate implementation and enforcement.
- 13. Some of the principal Recommendations by the Commission are:
 - to refine, expand, practice and enforce existing Codes of Ethics by media organizations themselves and by individual media practitioners and journalists with special reference to the most recent Guidelines formulated in countries with long-established democratic systems of United Kingdom, India, etc.
 - (ii) That through both voluntary actions by media and through the initiative of ECP, a new level of optimal

transparency about rates and costs of political advertising on TV, radio and print media can be achieved to provide a level playing field to all candidates and political parties.

- (iii) That the Election Commission of Pakistan may wish to consider establishing a specially-created Political Advertising Cell in ECP. The responsibility of this Cell would be to act as a central coordination point for the booking of and payment for, all political advertising in media during Election 2013. The purpose of this Cell will be to ensure transparency and observance of prescribed limits on expenditure. Facilities to support this Cell can be instantly obtained through the Federal Press Information Department and the Information Departments of the four Provincial Governments.
- (iv) That civil society networks of Observers should be used at each local constituency level to monitor use of **both mass media and community-based media** during the Elections.
- (v) That PEMRA should be directed by the Court and by the Election Commission of Pakistan to strictly enforce the existing Rules & Regulations applicable to both satellite TV channels, FM Radio channels and to Cable TV Operators.
- (vi) That Internet-based media, which reaches over treble the number of persons estimated to be reached by print media should also be included in the inter-action dimension of media and elections process.

- (vii) That State-owned media should be given directions by the Election Commission of Pakistan to prevent any possible residual effects from the preceding five years of Government control to affect the role of State media during the tenure of the Caretaker Government and the Elections phase.
- (viii) That special measures should be taken by the Caretaker Government to provide safety and security to working journalists during the Elections phase.
- (ix) That political parties and candidates should also ensure due care and restraint in their dealings with media in the Elections phase.
- (x) That the presence of international observers during the Elections phase will act as a positive factor to help media to render an impartial and independent role.

Media Commission Report

PART - TWO

OF

REPORT

AND

RECOMMENDATIONS

OF THE

MEDIA COMMISSION

APPOINTED BY

THE SUPREME COURT OF PAKISTAN

JANUARY-JUNE, 2013

Member

Senator (R) Javed Jabbar Justice (R) Nasir Aslam Zahid Chairman

Media Commission Report

31st May, 2013 <u>PART-TWO OF THE REPORT OF THE MEDIA COMMISSION</u> <u>CONSTITUTED BY THE SUPREME COURT OF PAKISTAN</u> <u>ON 15TH JANUARY, 2013</u>

Part-Two covers Terms of Reference (TORs) No.A, B, C, D, E, G, H & I.

Term of Reference No.F has already been covered by Part-One of the Report of the Media Commission submitted to the Court on 21st March, 2013.

The Report does, however, provide some supplementary Observations with regard to TOR No.F in this Part-Two as well.

- This document comprising Part-Two of the Report contains the following five Sections:
- (1) Executive Summary of Recommendations in Part-Two of the Report.
- (2) Detailed Findings, Observations, and Recommendations by the Commission on 8 out of 9 Terms of Reference as per details above.
- (3) Notes on Meetings held with 166 individuals and 81 representatives of organizations/institutions (subsequent to 21st March, 2013, the only additional person and organization met with is the Director-General, ISPR).
- (4) Seventeen Annexures as per list.
- (5) Summary of Financial Statement/Accounts with related material. (Detailed Account in Ledger and Accounts File are being submitted separately to the Ministry of Information & Broadcasting)

Executive Summary of Recommendations in Part-Two of the Report by the Media Commission appointed by the Supreme Court on 15th January, 2013

1. This Executive Summary contains Recommendations substantially covering only eight out of the nine Terms of Reference given to the Commission by the Supreme Court. The Term of Reference NoF was already covered in Part-One of the Report of the Commission submitted on 21st March, 2013 and is available on the website of the Supreme Court of Pakistan from 17th April, 2013.

Background:

- On 15th January, 2013, a Bench of the Honourable Supreme Court of Pakistan comprising Mr. Justice Jawwad S. Khawaja and Mr. Justice Khilji Arif Hussain during its deliberations on Constitutional Petition No.105/2012 along with CMAs-3795 & 3798 of 2012, HRC No.23957-S/2012 and Const. P. 53/2012 and Constitution Petition No.104 of 2012 & CMA 3464/12 and Constitution Petition No.117/12 rendered an Order by which a Commission was appointed by the Hon'ble Court to conduct a study of issues raised by the several petitions through nine Terms of Reference (TORs).
- 2. The Commission comprises as Chairman, Mr. Justice (R) Nasir Aslam Zahid and Member, Mr. Senator (R) Javed Jabbar.
- 3. Immediately after the receipt in Karachi by the Chairman and the Member of the written text of the Order and the related documents, on about 21st January 2013, the Commission commenced informal discussion to identity the elements needed for the work of the Commission including a time schedule, logistical, personnel and financial requirements.

- 4. The Chairman and Member decided, at the outset, to render their work for the Commission on an honorary basis i.e. without any remuneration. Only expenses incurred by the Chairman and Member on air travel, hotel accommodation outside Karachi, ground transport in Karachi and elsewhere when and if required would be entitled for reimbursement.
- 5. After reviewing various options, the Commission decided to invite Mr. Salim Gul Shaikh, former Federal Secretary, Government of Pakistan, now a permanent resident of Islamabad to serve as Secretary of the Commission. While accepting the invitation, Mr. Salim Gul Shaikh also insisted on serving the Commission on an honorary basis without remuneration.
- 6. The Chairman, Member and Secretary decided to give such honorary work the highest priority and changed their private, prior schedules of work on several occasions to enable them to fulfil their task on time as a public service.
- 7. Disruptive conditions in Karachi, and the pre-election and postelection phases in May 2013 adversely affected the work plans of the Commission. However, Part-Two of the Report is being submitted by the deadline of 31st May, 2013 as per the commitment made to the Hon'ble Court.
- 8. The Commission thanks all the 166 individuals from 81 organizations across Pakistan, from both the public and private sectors for benefiting the Commission with their respective views, information and suggestions. The Commission also thanks the Registrar of the Hon'ble Court, the Ministry of Information and Broadcasting and the Departments of Information of all four Provincial Governments for their valued cooperation. Thanks are also due to the Legal Aid Centre Karachi, to the civil society organization known as SPO

(Strengthening Participatory Organization) and the small, temporary staff team for providing useful infrastructural and operational support.

Some basic concerns of the Commission:

The Commission records, at the outset, some basic concerns:

1. Prominent, quarter-page advertisements containing the text of the nine Terms of Reference of the Commission were published in all leading newspapers of Pakistan in Urdu, Sindhi and English. The advertisements invited members of the public and forums with a special interest in media policies and issues to provide their own views to benefit the Commission. Only a negligible number of responses were received which were entirely disproportionate to the circulation and readership of these leading newspapers. Is this lack of response an indicator of apathy and indifference on the part of the public about various aspects of the media in Pakistan? Or is the lack of response due to a conviction on the part of citizens that it is not possible to reform the media? Or is the lack of response, a lack of faith in the potential difference that the Commission's Report can make to changing or improving the conditions covered by the nine TORs? Or is the public quite satisfied with the standards and output of media? Or does a particular kind of advertisement fail to stimulate public interest?

A definitive answer to one or more of the above questions would only have been possible if focused, scientific research had been conducted between the date on which the advertisements appeared i.e. 17th February, 2013 and, say, 17th March, 2013 i.e. a period of 30 days. But since such research was not conducted --- as its need was not anticipated! --- surmise and speculation about the reasons for the lack of interest will have to suffice at this time.

2. Equally, if not more notable is the fact that, to date i.e. end-May 2013, a period of about 45 days since the placement of Part-One of the Report on the website of the Supreme Court, there has not been a single review or analysis of the Commission's Findings, Observations and Recommendations on TOR No.F i.e. "to inquire into allegations of media-related corruption and suggest steps to ensure impartial and independent media for the upcoming elections".

The Commission submitted a Report which the Hon'ble Court graciously described as "thorough" and directed the Election Commission of Pakistan to take note of the several Recommendations by the Commission for possible implementation, specifically by ECP.

Yet, except for brief, cursory references in news items of only a few, not all leading newspapers, to the above comments and directions by the Hon'ble Court, no systematic review and analysis by any newspaper or journal has been published to date. Between the placement of the text of the Report on the website of the Supreme Court on 17th April, 2013 for access by anyone interested in the subject and the conduct of polling on 11th May 2013, there were over three weeks available to both print media and electronic media to study the eleven different modes/sectors in which the Commission's Report made precise Recommendations. Suggestions for action by print media and electronic media, by the Government, by PEMRA, by civil society, by social media groups and by citizens at large were listed and explained. If media had acted on all, or even some of the Recommendations pertaining to their own self-regulation and if media had brought the Recommendations in general made by the Commission to the attention of citizens, the aims sought to be achieved by TOR No.F could have been reasonably advanced.

The submission of the Report by the Commission to the Hon'ble Court on 21st March, 2013 was followed soon after by the disclosure of the names of recipients of secret funds given by the Ministry of Information & Broadcasting, a subject partly covered in Part-One of the Report. However, this aspect of disbursement of secret funds received brief yet disproportionately prominent coverage by media. It is hoped that after the submission of Part-Two of the Report and after the Hon'ble Court authorizes the release of Part-Two of the Report : media, academia, civil society, Parliament and Provincial Legislatures and Federal and Provincial Governments will afford some attention to the contents of both Part-One and Part-Two of the Report.

It is curious as to why neither print media nor electronic media have informed the public that the text of Part-One of the Report is available on the website of the Supreme Court? The Commission hopes that this omission is not due to the fact that several recommendations call for introspection and corrective action by media themselves.

Notwithstanding the lack of interest cited above, and with no wish to overestimate the relevance of this Report, the Commission believes that the Recommendations in both Part-One and Part-Two, having been formulated after extensive consultation and detailed deliberation by the Commission itself, address fundamental issues deserving of immediate attention by all concerned and by those who presently occupy positions of authority, as also those who will become holders of public and private office in present times. Most importantly, the Recommendations represent invitations to dialogue and action.

3. Seen in the context of both the nine Terms of Reference of the Commission and, inevitably, seen also in the larger totality of

the national context of Pakistan's polity, four categories of media in Pakistan in 2013 are operating in distinctly separate legal, policy and operational frameworks. The four categories of media are:

- (a) Print media e.g. newspapers and magazines with easy conditions of entry for publishers and editors, without differentiation between authentic, credible print media and on the other, a large number of "dummy publications". Both types enjoy high levels of freedom of expression and in many instances also receive substantial benefits from Government-controlled advertising, irrespective of whether a newspaper is a genuine newspaper with a credible level of circulation or it is a merely token, ceremonial publication whose circulation may not exceed 100 or 500 copies a day but, because of corrupt practices, receives larger volumes of Government-controlled advertising.
- (b) Electronic media: In contrast to the ease of entry into publication for print media, the entry criteria into the electronic media sector are more exacting and more expensive i.e. the need to meet the eligibility criteria specified by PEMRA, the costs of obtaining a licence e.g. Rs.5 million, the costs of equipment and satellite broadcast facilities, the relatively high cost of operating a news channel (whose content cannot be resold or repeated unlike the content of an entertainment channel) etc. Also, unlike the print media sector where there is no longer any State-owned daily newspaper or magazine in the electronic media sector, there are PTV and PBC, both of which receive large sums of money from the public (the TV licence fee for PTV) or the public exchequer e.g. PBC which receives over 90 % of its revenue as grant-in-aid.

- (c) Social media: Perhaps the easiest sector for entry and the easiest to operate in, at the lowest cost, because even a single individual with a computer and Internet connectivity can maintain a website or a blog. The evolution of Facebook, Twitter, and other dimensions of the Internet have also made it the most participative mass medium with optimal access, except for phases where YouTube is blocked.
- (d) Classical media: the theatre, books, cinema: each of these is not a news medium and each of these is governed by different laws and mechanisms at the Federal and now increasingly, at the Provincial levels.
- 4. In general, there are major discrepancies and variations between, and within the above four categories of media in terms of legislation, regulation and actual operation. While singularity of legislation or regulation for such a wide variety of media will remain elusive and perhaps impractical, there is certainly a need for greater coherence and clarity in the laws and policies that apply to all the above media.
- 5. In terms of regulation of media it is evident that there is regulation but that it suffers from numerous deficiencies. There is also mis-regulation. Regrettably, there is also a marked vacuum or complete absence of regulations. For instance, there is no legal framework for the professional regulation of the advertising sector. There is a need for legally mandated institutions such as an Advertising Council and an Advertising Standards Authority in view of the strong impact that advertising delivers on media content. There is also a need for legislation to validate and define self-regulation. Just as legislatures adopt Acts to grant charters to universities and educational institutions, there is a dire need for legislature to define the legal and social responsibility parameters within which self-regulation by media should be conducted.

6. If the nine TORs given to the Commission are seen to be primarily related to the role of public institutions and private organizations in the context of news media --- as separate from entertainment media or specialized-knowledge media --- it is pertinent to note that the advent of news media in print, but more so in TV channels in particular is marked by positive as well as some negative factors.

7. **Positive facets of news media:**

- (i) In place of historic monopoly, a new range of choice for citizens, in news source-brands and in languages: Urdu, Punjabi, Sindhi, Balochi, Saraiki, Pushto.
- (ii) Candid, robust debate on politics and current affairs in Pakistan on a daily basis.
- (iii) Instant news coverage for 24-hours a day, seven days a week, followed by simultaneous, instant analysis and comment, for better or worse !
- (iv) The introduction and development of new talent and skills, on screen and behind the scene.
- (v) Substantial capital investment, creation of new employment opportunities.
- (vi) Wide range of subjects covered despite preoccupation with politics.
- (vii) Access to overseas news media e.g. CNN, BBC, Al-Jazeera etc.
- (viii) Willingness of working journalists to render the ultimate sacrifice: over 20 Pakistani journalists have

been killed between 2001 and 2013 in the line of duty, mostly in conflict areas where they have worked without protection.

8. **Negative facets of news media:**

- Lack of adequate, comprehensive training in print journalism and in broadcast journalism before persons are given the opportunity to become reporters, anchors, news readers, content controllers, etc.
- (ii) Advertisers virtually dictate prime time content preferences by using a narrow, relatively nonrepresentative, heavily urban and consumption oriented rating system to pressurize channels into cutthroat competition and to a lowering of standards of content.
- Excessive commercialism e.g. advertising messages superimposed on screens during unrelated content, prolonged mid-breaks etc.
- (iv) Along with the "breaking news" race, hysteria, hype and trivialization.
- (v) Promotion of acrimony, conflict, grievance.
- (vi) Fragmentation of audiences due to proliferation of choices in place of singular and cohesive sharing of content.
- (vii) Non-transparency in financial aspects of media e.g. advertising rates charged, grants or support received from overseas sources, fees and salaries paid to staff, assets and income of media owners etc.

- (viii) Absence of effective, enforced self-regulation mechanism.
- (ix) Absence of credible, audience-oriented complaints mechanism.
- Excessive use of Indian content on TV and in FM
 Radio stations, and new surge in dubbed content from
 Turkey at the expense of Pakistani content.
- (xi) Tendency on the part of some sections of media to conduct criticism of civil and military institutions in terms that are remarkably similar to criticism of the same institution by sections of overseas media including Indian media, thereby adversely impacting internal national cohesion and solidarity during a time when the country faces harsh internal as well as external threats.
- Inability of PEMRA to enforce discipline due to excessive proliferation of channels (satellite channels plus CD in-house channels of each cable TV Distributor) and due to stay orders from the High Courts.
- 9. In the succeeding Section of this Report, the Commission has identified specific areas and precise measures that could be taken into consideration by legislatures, governments, media, the judiciary and civil society.

(Basic concerns listed by the Commission end here).

Recommendations for TOR Nos.A, B, C, D, E, G, H & I.

(Recommendations for TOR No.F already provided in Part-One of the Report)

1. If the nine TORs given to the Commission are seen to be primarily related to the role of public institutions and private organizations in the context of news media --- as separate from entertainment media or specialized-knowledge media --- it is pertinent to note that the advent of news media in print, but more so in TV channels in particular is marked by positive as well as some negative factors.

Recommendation No. 1

Need for self-critical review by all stake-holders:

2. The Commission is of the opinion that both print media and electronic media, individually and through their representative bodies, as also advertisers need to conduct sober, self-critical introspection to review, reform and renew their respective roles and responsibilities. It is regrettable that no serious and sustained attempt has so far been made in this respect.

At the same time, both Federal and Provincial Legislatures, and Federal and Provincial Governments need to conduct a comprehensive review of media-related legislation, policies and rules to remove defects and to update them to contemporary conditions as also to prepare for a rapidly unfolding future of complexity.

Recommendation No. 2

Subject to substantive restructuring, retention of the Ministry of Information & Broadcasting:

- 3. The Commission concludes that the Federal Ministry of Information and Broadcasting and the four Provincial Departments of Information require substantive restructuring by which:
 - (i) certain departments and functions should be either abolished, or significantly reformed, in order to ensure that the continued functioning of this institutional framework does not impede or obstruct the fulfillment of rights guaranteed by Article 19;

For instance, there should be horizontal decentralization and de-control in the selection of advertising agencies and selection of media for advertising by Government entities to replace the existing centralized system with a new accountable, monitored autonomy-based framework.

 (ii) due consideration be given by the next Parliament and the Government towards bringing together under a single new Federal Ministry the sectors of, on the one hand, "Information and Broadcasting" (and conventional mass media) and, on the other hand, the sectors of Information Technology and Telecommunication. To date, these two sectors have been supervised by two separate Federal Ministries.

> The subject of cinema, historically under the Federal Ministry of Culture (now devolved to Provinces after the 18th Amendment) should also be brought under the purview of the proposed new singular Ministry to

ensure effective co-ordination of development and functions of all media.

- 4. Thus, the Commission recommends that, **subject to such changes and other related changes being made**, the Ministry of Information and Broadcasting and the four Provincial Departments of Information **be retained as parts of the State and governmental structures.**
- 5. The Commission is cognizant of the fact that it will require amendments to the Constitution, laws, Rules of Business and other formal texts to make implementation of these Recommendations possible and that these changes can take place only **after** both the Hon'ble Court and Parliament have endorsed all or some of these Recommendations, and support their implementation.

Recommendation No. 3

Despite partial fulfillment of its mandate, PEMRA requires complete autonomy and direct purview of Parliament.

- 6. The Commission is of the opinion that between 2002 and 2013, PEMRA has certainly facilitated the transformation of the electronic media landscape of Pakistan.
- 7. However, there is an **urgent** need to revisit and reconstruct the laws, regulations and rules by which PEMRA exists and functions.

Elements that should shape amendments to the existing laws, or an entirely new law, represent the following realities and principles:

(a) The phenomenon of continuing convergence, and

the consequent need for regulation to become relevant to new realities.

Smart-phones and cell-phones represent the convergence of television, radio, print, cinema, telecommunication, information technology, computers, and the internet, while digitalization opens up new possibilities and increases the range of choices. Whether it is the minimal function of allocating frequencies in the air-waves or whether it is the complex question of defining parameters for content of media (without unduly curtailing freedom of expression), the regulatory institution in Pakistan in the second and third decades of 21st century should have the capacity to reflect new realities and the means to enforce the principles of fairness, transparency, accountability and independence. This last desirable quality in particular i.e. of "independence" brings us to the **second** element that should shape a review of the existing laws or a formulation of an entirely new law.

(b) In order to be genuinely independent of partisan influence by the Government-of-the-day which represents the majority in Parliament but does not necessarily represent or ensure representation of the unanimity of Parliament, in order to ensure that a regulatory body is also independent of commercial influence, PEMRA, or any new entity put in place, should be authentically separated from the control of the Executive. The power to appoint the Chairman and the Members of the Authority or any other new entity charged with regulation of electronic media and related fields could vest with one of the following two proposed forums:

Option 'A':

A six-person Committee comprising: Speaker of the National Assembly, Chairman of the Senate, Leaders of the House and the Opposition in the Senate and the National Assembly.

Option 'B':

The Prime Minister of Pakistan to select one out of three names proposed by a Committee comprising the Leader of the Opposition in the National Assembly, Leader of the House and Leader of the Opposition in the Senate and three other eminent citizens each representing: civil society, media, non-Muslims to be selected by the Leaders of the House and the Opposition in both Houses of Parliament.

- (a) The regulatory Authority should be administratively responsible to the Parliament of Pakistan, rather than to a Ministry or to the Cabinet Division.
- (b) While Pakistan does not possess a Constitutional equivalent of the issuance of a Royal Charter as in the United Kingdom by which, after consultation by the Cabinet (and not with Parliament), the Prime Minster requests the Queen/King to issue a Charter to the BBC, new legislation in Pakistan should, as far as possible, seek to reflect the qualities of autonomy, independence, impartiality and accountability as per the BBC's Charter (at Annexure-7).
- (c) The third element to shape the new legislative framework should remove the existing segmentation of sectors related to communication as evident in the

separate Ministries of Information and Broadcasting, Ministry of Information Technology, Ministry of National Heritage (for cinema), Pakistan Telecommunication Authority, PEMRA, PBC Act, Companies Ordinance, 1984 (applicable to PTV) etc.

- 8. Till the time that the proposed new legislation and restructuring of PEMRA is agreed upon and implemented : To encourage and promote the rich reservoir of talent and skills in the Pakistani people for creative drama, entertainment and content with tasteful popular appeal, PEMRA should formulate an appropriate policy that protects producers, directors, writers, actors and other segments of creative professional teams from the unfair impact of foreign content processed at low prices and that is dubbed into Urdu and freely broadcast by TV channels, thus, reducing the time available for the broadcast of content produced by Pakistani firms and reducing the income for indigenous Pakistani talent.
- 9. Concerns and complaints expressed by PBA, Cable TV distributors, advertisers, advertising agencies and other stakeholders should be addressed by PEMRA through regular, structured dialogue with such stakeholders and groups.
- 10. Views held and expressed by civil society organizations, specially forums engaged with women empowerment, human rights, children's rights, minorities' rights and other advocacy groups about reforms required in PEMRA's policies and actions should be effectively addressed through a process by which PEMRA invites these forums for regular exchanges of views.

Recommendation No. 4

Need for expeditious hearings of pending cases pertaining to PEMRA

- 11. It is recommended that renewed efforts be made for expeditious hearings and disposal of the large number of cases dealing with electronic media on which stay orders are in operation.
- 12. To enable fair, cooperative, non-litigious regulation by PEMRA, Pakistan Broadcasters' Association, Cable TV Operators Association, Pakistan Advertisers' Society, Advertising Association of Pakistan need to review their own existing policies and practices. This should ensure compliance by their members of their respective obligations to render public service duties and provide public interest content. Media should demonstrate complete transparency in rates charged for advertising, in time devoted to commercial content and programming content, and in fulfilling terms and conditions of licenses and other aspects of their social responsibilities.

Recommendation No. 5

Freeze on issuance of new licences:

 Till the transition to digital broadcast technology is completed, PEMRA should freeze the issuance of any more licenses for TV channels because there is already a glut of numbers in analogue-based technology.

Recommendation No. 6

Curb smuggling and sale of DTH set-top boxes:

14. To enable PEMRA to credibly curb the telecast of pirated/smuggled/illicit content from India, USA, and other sources, other government entities, Federal and Provincial such as, the Federal Board of Revenue/Customs, Federal Investigation Agency, Police Forces and Law Enforcement Agencies should take visible actions to prevent the smuggling and open sale of DTH (Direct-To-Home) set-talk boxes from India.

Recommendation No. 7

Licenses for community-based electronic media:

PEMRA should be directed to formulate a fair, transparent 15. policy to issue licenses on a non-auction basis, without applying a commercial approach, for community-based electronic media. PEMRA should be directed to revise its discriminatory exclusion of NGOs registered as social welfare associations, societies, trusts, not-for-profit joint-stock companies from being eligible applicants for community-based electronic media. PEMRA should be directed not to disqualify applicants on the basis that they are the recipients of funding support from multi-lateral institutions such as United Nations Agencies, regional organizations such as European Union or friendly foreign countries. Safeguards can be enforced to prevent community-based electronic media from being used to project content that is violative of the laws of Pakistan and PEMRA's Regulations & Rules to prevent such media from being exploited for covert objectives or being misused by locally-based extremists or hate groups. In fellow Muslim countries such as Indonesia, Turkey, Bangladesh and others,

there are large numbers of community-based electronic media which meet the specific needs of communities at the grassroots level. As stated elsewhere in this Report, the Economic Affairs Division of the Federal Government remains fully informed of all overseas aid to Pakistan and to organizations located in the country.

Recommendation No. 8

<u>Transforming PBC, PTV and APP into authentically</u> <u>autonomous entities:</u>

- 16. Given the new information environment of Pakistan in 2013 in which the existence of a multi-party Parliament and an assertive superior Judiciary, a growing civil society, private and vibrant media, increasing access to the internet, sufficient checks and balances exist to prevent monopolistic, negative, distortive use of State media by the Government-of-the-day in a manner that would violate the fundamental right under Article 19.
- 17. The Commission recommends that consideration may be given by the Hon'ble Court and by the new Parliament to the following options towards attaining the objective of transforming PBC, PTV and APP into organizations that can credibly and consistently serve the public interest while retaining one, or more kinds of institutional linkages with the State:
- Elements that could shape new legislation and policy in order to attain the ideals indicated in TOR No.D are possible from the following:
 - (i) **PBC:** To introduce an entirely new system and process for the appointment of the Chairman, Chief Executive and the Board of Directors, on lines similar

to the new system proposed for PEMRA in Para-1 the section of this Report dealing with TOR No.B. Due to PBC's deep dependence on financial subsidies from the State, such State funding should continue but new checks and balances put in place to prevent such subsidies from becoming a partisan stranglehold.

- (ii) In the year 2000, a Report was commissioned by a Task Force to propose alternative strategies to make PBC effectively autonomous and less dependent on financial subsidies from the State. There is a need to revisit that Report which was not implemented, as also to incorporate new elements relevant to the new realities and conditions that exist in 2013 and trends which are anticipated in the foreseeable future.
- (iii) PTV: Unlike PBC which has its own legislative cover through the PBC Act, 1973, PTV is a joint-stock company wholly owned by the State, and registered under the Companies Ordinance, 1984.

The Commission recommends that due consideration be given **to reducing the shareholding of the State in PTV by about 75%** to reduce it to 25%, or less. That 75% shares be offered to the public at large through the Stock Exchanges of the country and through a special public offering with the conditionality that no single organization/investor/citizen can hold more than 2% (two percent) of the total shares. Owners of TV channels should not be eligible to own any shares in PTV to prevent conflict-of-interest. The aim of dispersing and diffusing ownership of shares so broadly is to prevent any single group from exercising undue control over the editorial policy and programme content. Further, through a system of time-bound rotation, civil society organizations of repute such as those with long-established records of service in the fields of education, health, human rights, capacitybuilding, micro-credit, etc. professional associations, universities etc. could also be given minimal blocks of shares. While the State's interests and linkages would be maintained through a continued shareholding by the State, the Government-of-the-day would no longer exercise partisan control of PTV. The public at large, represented by citizens as well as organizations, would gain the opportunity to redirect PTV to become a genuine public service broadcaster. To ensure efficiency, a management structure subject to bipartisan Parliamentary oversight could be established.

- (iv) Due consideration would also need to be given towards placing PTV under the purview of the amended and reformed PEMRA law as suggested in the section of this Report dealing with TOR No.B.
- (v) Consideration would also need to be given to the need to end the unfair monopoly status of PTV being the sole recipient of the TV license fee.
- (vi) To make PTV less dependent on the revenue from TV license fee, the staff strength and organization of PTV would unavoidably have to be rationalized and restructured. Models for such reorganization, using concepts such as golden handshakes, etc. are available for possible replication.
- (vii) APP: Consideration needs to be given to the possibility of reducing the State ownership of APP from the present level of 100% to a level such as 25% or less with 75% shares being offered to:

- (a) the present staff of APP in proportion to years of service, levels of performance with a proportionate reduction/surrender of shares, on retirement/removal from service, etc.
- (b) on a pattern similar to the one proposed for a new structure for PTV, the offer of limited blocks of shares to the collective representative bodies of media which use the output of APP e.g. All Pakistan Newspapers Society, Pakistan Broadcasters' Association etc.
- 19. The Commission is of the opinion that, given all, or even some of the above proposed changes, the three State media entities of PBC, PTV and APP would become capable of playing a progressive and purposeful role in the information landscape of Pakistan.

Recommendation No. 9

<u>New legislation and reform of existing legislation for content</u> <u>self-regulation</u>

20. The Commission is of the opinion that it is **not feasible** to let the content of media be regulated exclusively through content self-regulation even after taking note of international standards and best practices.

There is an inescapable, irreducible responsibility and need for the State to provide a legislative framework of guiding principles and norms, with adequate checks and balances that do not curb freedom of expression. Except for certain subjects of hypersensitivity and for subjects that, in any case, deserve circumspection, media in Pakistan already enjoy some of the highest levels of freedom, and of content self-regulation, in comparison to all other predominantly Muslim countries, and in comparison to most other countries in the regions of which Pakistan is simultaneously a part i.e. Central Asia, South Asia, West Asia, Gulf.

21. As stated earlier: there has been extensive transformation of the media landscape of Pakistan in the past twelve years (2000-2013) during which telecommunications, electronic media and new technologies have created an unprecedented interface between print media and electronic media. There have also occurred significant social, demographic, economic and environmental changes in the country over the past two decades. Many of the existing 64 media-related laws were framed in previous decades in which conditions were entirely different. There is an urgent need to update and revise several aspects of the general regulatory framework to make the process relevant to these new objective conditions.

Recommendation No. 10

Need for a Review of Media Laws:

22. Therefore, the Commission is of the view that the Standing Committees on Information & Broadcasting of the National Assembly and the Senate establish a Media Laws Review Task Force comprising media specialists, to conduct a comprehensive review over, say, a 6-months period of all media laws, rules, regulations and Codes in the context of the new objective conditions.

While fundamental ethical values are eternal and universal, the definitions of terms, words and phrases in the context of usage by media and in the context of the immediacy of news coverage requires re-visitation and possible reinterpretation.

- 23. Thus, it would be most timely and useful that purposeful consultation be conducted both within the media sector and with civil society, and with the relevant administrative Ministries and Departments.
- 24. The Commission recommends that the Parliamentary Standing Committees and stakeholders initiate such consultations at the earliest in order that a consensus be established with due reference to both the changed media landscape within Pakistan, and with reference to the regional and international contexts. Even where Codes have been drafted or circulated in the past three years as in the cases of PEMRA, PBA, etc. a fresh round of consultation on each aspect of content self-regulation would help update all concerned and facilitate effective mechanisms. The consultations should be initiated with and by each of the representative/regulatory bodies of the media i.e. All Pakistan Newspapers Society (APNS), Council of Pakistan Newspaper Editors (CPNE), Pakistan Federal Union of Journalists (PFUJ), All Pakistan Newspaper Employees Confederation, Pakistan Television Corporation (PTV), Pakistan Broadcasting Corporation (PBC), Pakistan Electronic Media Regulatory Authority (PEMRA), Pakistan Broadcasters' Association (PBA), Press Council of Pakistan (PCP), Pakistan Coalition for Ethical Journalism (PCEJ), Pakistan Advertisers' Society (PAS) and Advertising Association of Pakistan (AAP).
- 25. To ensure that such a process is result-bound and time-bound, the Commission recommends that a period of, say, six months be specified at the end of which there should be a consensual agreement on the new Codes.
- 26. Amendments to existing laws and rules and new draft laws could be introduced for possible adoption by legislators during 2014.
- 27. The Commission is of the opinion that, to the optimal extent,

the funding for mechanisms that administer content selfregulation should be from within the print media and the electronic media, rather than from the Government to ensure authentic independence and credibility of these mechanisms.

Recommendation No. 11

Horizontal decentralization and accountable autonomy for advertising by Government entities:

- 28. With regard to TOR No.H i.e. the need for a single, transparent, objective, non-discriminatory policy for allocation of Government advertisements among electronic and print media : the Commission took careful note of the valuable suggestions and comments made by all the individuals and organizations with which it interacted.
- 29. The Commission is of the view that the formulation of a formal, written policy is the right and responsibility of the elected Government-of-the-day while being cognizant of public discourse on the subject, the views of all stakeholders, the views of civil society including non-stakeholders and, hopefully, the Findings, Observations and Recommendations contained in both Part-One and Part-Two of this Report by the Media Commission submitted to the Hon'ble Court.
- 30. Nevertheless, it is pertinent for the Commission to identify the following elements that should, in the Commission's view, be the determinant factors for a new policy that is singular rather than multiplistic, transparent rather than opaque, objective rather than subjective, fair rather than discriminatory.

These determinant factors for a new policy as required by TOR No.H are:

- (i) **Decentralization:** This factor would require a fundamental, radical reversal of the centralization which began in 1950 and which was reinforced thereafter for the past six decades. But if the State and the society have taken the decision through Parliament, as they did in 2010, to adopt the 18th Amendment and abolish the Concurrent Legislative List in order to strengthen the Provinces and the Federation, then the factor of decentralization should be applied both horizontally and vertically with regard to how Government-controlled advertising is allocated and how advertising agencies are selected. This factor would require that each Government entity be enabled to select print and electronic media for placement of its advertising as per its own autonomous decisionmaking process and requirements while remaining subject to accountability and equity.
- (ii) **Guidelines by the Federal Government :** In place of the operational control exercised in the past and in the present by the Press Information Department and the Provincial Information Departments, Guidelines should be issued by the Federal Government to help make the practice of decentralization a stable, evenhanded and reliable process. Such proposed guidelines would make it mandatory for each Government entity, be it a Ministry or a corporation to ensure that the selection of the advertising agencies and the selection of print and electronic media are made on the basis of principles of merit, relevance, reasonable costs, fair opportunity for all those eligible to compete for the contracts to have equal preparatory notice and time, with a fair system of evaluation and Such guidelines would include due selection. emphasis on determining the authenticity of

circulation or size of audience claimed by media through independent, professional, credible means. One mandatory guideline could be the need to ensure that a minimum reasonable share of advertising expenditure by Government entities is allocated to regional media while ensuring that the definition of what media constitute regional media, both print and electronic, is credible and verifiable.

- (iii) Comprehensive, multi-media policy : Whereas the policy to date has dealt only with print media, any new policy should be multi-media and also cover electronic media, the new emerging digital media and social media on the Internet. The experience of several countries in this realm will serve as a relevant source of reference for this particular factor.
- (iv) Monitoring without controlling : Whereas throughout Pakistan's history, the Ministry of Information & Broadcasting through the Press Information Department has rigidly controlled all aspects of advertising by the Government, the proposed new policy should enable the Federal Ministry of Information & Broadcasting and the Provincial Departments of Information to conduct accurate monitoring without controlling the process. By itself, the function of monitoring the placement of Government advertising in media would meet a basic need for detached observance and impartial institutional evaluation of the process.
- 31. With regard to TOR No.I : as stated earlier, in the sections dealing with TOR No.G, on the face of it, all Federal and Provincial Government entities claim to adhere to the Principles and Guidelines on which Public Procurement

Regulatory Authority Rules are based. Where PPRA Rules directly apply to them, Government entities claim that they abide by the same.

- 32. The Central Advertisement Policy practiced by the Press Information Department of the Ministry of Information & Broadcasting is cited as an example of how, in a formal, declared manner, the principles of fairness, transparency and accountability are ensured in the selection of advertising agencies and of print media.
- 33. However, as per the Public Procurement Regulatory Authority Ordinance, 2002, the scope of scrutiny by PPRA covers only contracts of Rs.50 million and more.
- 34. Whereas the predominant practice of virtually all Federal Government and Provincial Government entities is to conduct advertising in segments and phases that do not exceed Rs.50 million at any one stage. For instance, even where the total advertising budget of a Government entity may be more than Rs.50 million per year, the tendency is to select advertising agencies and media for campaigns whose costs in phases normally do not exceed Rs.50 million. Once a particular segment of advertising is completed, costing under Rs.50 million, the process of the next segment is initiated and here too, as the total outlay is normally below Rs.50 million, the PPRA Rules do not become applicable. Further, the tendency is to divide the expenditure on advertising between more than two or three advertising agencies whereby a single contract remains under the level of Rs.50 million per contract.
- 35. While the Commission did meet with senior representatives of three major Government entities which are principal advertisers in print media i.e. PIA, PSO and Benazir Income Support Programme, the Commission could not meet in person

with the Chairman or Managing Director of PPRA itself. Nevertheless, a communication by email was addressed to the Managing Director of PPRA on 21st May, 2013 (copy of the said email is at **Annexure-17**).

36. Findings, Observations and Recommendations by the Commission on TOR No.A, F, G, & H in the preceding section of this Report aim to fulfill the last part of TOR No.I i.e. "..... to suggest processes which are fair and transparent and which ensure the greatest value and fairest dissemination of information". For instance, the proposed restructuring of the Audit Bureau of Circulation (ABC) and the Press Information Department (PID), the introduction of decentralization by enabling each Government entity to determine the selection of media and advertising agencies by its own autonomous process working within guidelines defined by the Government etc.

[Executive Summary ends here]

Detailed Findings, Observations, and Recommendations by the Commission on 8 out of 9 Terms of Reference.

Terms of Reference (TORs) of the Media Commission

- A. To consider the role of the Ministry of Information and Broadcasting and other Government agencies in ensuring freedom of print and electronic media and whether or not there is information and material brought before the Commission to justify the continued functioning of the Ministry, consistent with Article 19 of the Constitution.
- B. To analyze whether and to what extent PEMRA has been able to fulfil its developmental mandate and regulatory functions independently under the PEMRA Ordinance.
- C. To determine if it advances or is consistent with the fundamental right under Article 19 ibid to allow the Government or its instrumentalities to be major players in the media through State Television and Radio Broadcasters.
- D. To ascertain if PTV, PBC and APP, the recipients of public funding of billions of rupees, have independent in-house management and transparent policies in place which advance the objectives of fairness and even-handedness expected of publicly-funded entities and to determine if there are adequate checks against lop-sided or biased dissemination of information by these publicly-funded entities.
- E. To consider the feasibility of letting the media adopt a selfregulatory code of conduct instead of content regulation, in the light of international standards and best practices.
- F. To enquire into allegations of media-related corruption and suggest steps to ensure impartial and independent media for the upcoming elections.

- G. To inquire whether, when giving money to different media houses directly for or on the pretext of advertisements, were the government or its functionaries pursing a transparent, duly approved, bona fide Government Advertisement Allocation Policy or were the decisions to buy advertisement space with public money made arbitrarily or without objective criteria or to favour particular channels, journalists or media houses.
- H. To propose a single, transparent, objective, non-discriminatory policy for allocation of Government advertisements among electronic and print media.
- I. Whether the Federal and Provincial Governments, autonomous and semi-autonomous bodies, Government corporations or agencies adhere to PPRA rules or other transparent processes while granting advertisement contracts to advertising agencies or media houses. If not, then to suggest processes which are fair and transparent and which ensure the greatest value and fairest dissemination of information.

Introduction:

(The following five paragraphs are reproduced, for the record, from the Introduction to Part-One of the Report. Already given on page 01).

- "On 15th January, 2013, a Bench of the Honourable Supreme Court of Pakistan comprising Mr. Justice Jawwad S. Khawaja and Mr. Justice Khilji Arif Hussain during its deliberations on Constitutional Petition No.105/2012 along with CMAs-3795 & 3798 of 2012, HRC No.23957-S/2012 and Const. P. 53/2012 and Constitution Petition No.104 of 2012 & CMA 3464/12 and Constitution Petition No.117/12 rendered an Order by which a Commission was appointed by the Hon'ble Court to conduct a study of issues raised by the several petitions through nine Terms of Reference (TORs).
- 2. The Commission comprises as Chairman, Mr. Justice (R) Nasir Aslam Zahid and Member, Mr. Senator (R) Javed Jabbar.
- 3. Immediately after the receipt in Karachi by the Chairman and the Member of the written text of the Order and the related documents, on about 21st January 2013, the Commission commenced informal discussion to identity the elements needed for the work of the Commission including a time schedule, logistical, personnel and financial requirements.
- 4. The Chairman and Member decided, at the outset, to render their work for the Commission on an honorary basis i.e. without any remuneration. Only expenses incurred by the Chairman and Member on air travel, hotel accommodation outside Karachi, ground transport in Karachi and elsewhere when and if required would be entitled for reimbursement.
- 5. After reviewing various options, the Commission decided to invite Mr. Salim Gul Shaikh, former Federal Secretary, Government of Pakistan, now a permanent resident of

Islamabad to serve as Secretary of the Commission. While accepting the invitation, Mr. Salim Gul Shaikh also insisted on serving the Commission on an honorary basis without remuneration."

(New text follows)

- The Commission submitted Part-One of the Report on 21st March, 2013. The text of Part-One was placed on the website of the Supreme Court on 17th April, 2013.
- Accepting the request of the Commission, the Court extended the deadline for completion of the Report to 31st May, 2013 instead of the original deadline of 31st March, 2013..
- 8. Even though the Chairman, Member and Secretary of the Commission continued to render their services on a voluntary and honorary basis, expenditures were inevitably required for salaries for support staff, research, logistics, including airtravel and ground travel, for the nine weeks remaining between the submission of Part-One of the Report and the deadline for the submission of Part-Two of the Report by 31st May, 2013.
- 9. Responding to a request from the Commission for additional funding support beyond the original sum of Rs.2 million, the Hon'ble Court directed the Ministry of Information & Broadcasting to release the additional amount of Rs.2 million, received by the Commission vide Cheque dated 22nd March, 2013.
- A complete Statement of Account with supporting documents is provided as Section 6 of Part-Two of this Report. A sum of approximately Rs.1.5 million is being refunded by the Commission to the Ministry of Information & Broadcasting. Precise figures are given in the Statement of Accounts.

- 11. During preparation of Part-Two of this Report, the Commission continued to face difficulties in conducting work from offices located in rooms rented for this purpose at Qasr-e-Naz, the Federal Lodge at Club Road, Karachi. Work was initially disrupted and then completely discontinued because KESC cut off electricity supply to Qasr-e-Naz because of non-payment of dues. Even a rented generator did not prove to be a reliable source of power supply. The Commission then reverted to using the premises of the Legal Aid Office of which the Chairman of the Commission is also the Chairman as well as the residence-cum-office of the Member of the Commission. The Secretary also often had to use his residence in Islamabad to conduct his work. Periodic disturbances and suspension of public transport in Karachi, including phases of terrorism and violence in the pre-election period, alongwith frequent loadshedding contributed to considerable inconvenience.
- Nevertheless, the Commission was able to complete the drafting of Part-Two of the Report before the deadline of 31st May, 2013.
- 13. The Commission records its thanks to all members of the small but hardworking staff team of Researchers and Stenographers as well as the staff at the Legal Aid Office, the leaders and staff at SPO (Strengthening Participatory Organization), a leading civil society organization that provided support in cities outside Karachi, the Member's team and the Secretary for enabling the timely completion of Part-Two of the Report.

Some basic concerns of the Commission.

- 1. Before presenting in detail its Findings, Observations and Recommendations, the Commission records, at the very outset, some basic concerns as stated below:
- 2. Prominent, quarter-page advertisements containing the text of the nine Terms of Reference of the Commission were published in all leading newspapers of Pakistan in Urdu, Sindhi and English. The advertisements invited members of the public and forums with a special interest in media policies and issues to provide their own views to benefit the Commission. Only a negligible number of responses were received which were entirely disproportionate to the circulation and readership of these leading newspapers. Is this lack of response an indicator of apathy and indifference on the part of the public about various aspects of the media in Pakistan? Or is the lack of response due to a conviction on the part of citizens that it is not possible to reform the media? Or is the lack of response, a lack of faith in the potential difference that the Commission's Report can make to changing or improving the conditions covered by the nine TORs? Or is the public quite satisfied with the standards and output of media? Or does a particular kind of advertisement fail to stimulate public interest?

A definitive answer to one or more of the above questions would only have been possible if focused, scientific research had been conducted between the date on which the advertisements appeared i.e. 17th February, 2013 and, say, 17th March, 2013 i.e. a period of 30 days. But since such research was not conducted --- as its need was not anticipated! --- surmise and speculation about the reasons for the lack of interest will have to suffice at this time.

3. Equally, if not more notable is the fact that, to date i.e. end-May

2013, a period of about 45 days since the placement of Part-One of the Report on the website of the Supreme Court, there has not been a single review or analysis of the Commission's Findings, Observations and Recommendations on TOR No.F i.e. "to inquire into allegations of media-related corruption and suggest steps to ensure impartial and independent media for the upcoming elections".

- 4. The Commission submitted a Report which the Hon'ble Court graciously described as "thorough" and directed the Election Commission of Pakistan to take note of the several Recommendations by the Commission for possible implementation, specifically by ECP.
- 5. Yet, except for brief, cursory references in news items of only a few, not all leading newspapers, to the above comments and directions by the Hon'ble Court, no report to convey the Recommendations to the public has been published to date by any newspaper or journal.
- Between the placement of the text of the Report on the website 6. of the Supreme Court on 17th April, 2013 for access by anyone interested in the subject and the conduct of polling on 11th May 2013, there were over three weeks available to both print media and electronic media to study the eleven different modes/sectors in which the Commission's Report made precise Recommendations. Suggestions for action by print media and electronic media, by the Government, by PEMRA, by civil society, by social media groups and by citizens at large were listed and explained. If media had acted on all, or even some of the Recommendations pertaining to their own self-regulation and if media had brought the Recommendations in general made by the Commission to the attention of citizens, the aims sought to be achieved by TOR No.F could have been reasonably advanced.

- 7. The submission of the Report by the Commission to the Hon'ble Court on 21st March, 2013 was followed soon after by the disclosure of the names of recipients of secret funds given by the Ministry of Information & Broadcasting, a subject partly covered in Part-One of the Report. However, this aspect of disbursement of secret funds received brief yet disproportionately prominent coverage by media. It is hoped that after the submission of Part-Two of the Report and after the Hon'ble Court authorizes the release of Part-Two of the Report : media, academia, civil society, Parliament and Provincial Legislatures and Federal and Provincial Governments will afford some attention to the contents of both Part-One and Part-Two of the Report.
- 8. It is curious as to why neither print media nor electronic media have informed the public that the text of Part-One of the Report is available on the website of the Supreme Court ? The Commission hopes that this omission is not due to the fact that several Recommendations call for introspection and corrective action by media themselves.
- 9. Notwithstanding the lack of interest cited above, the Commission believes that because the Recommendations in both Part-One and Part-Two --- having been formulated after extensive consultation with all stakeholders and detailed deliberation by the Commission itself, address fundamental issues, they deserve immediate attention by all concerned and by those who presently occupy positions of authority, as also those who will become holders of public and private office in future times. Most importantly, the Recommendations represent an invitation to dialogue and action.
- 10. Seen in the context of both the nine Terms of Reference of the Commission and, inevitably, seen also in the larger totality of

the national context of Pakistan's polity, four categories of media in Pakistan in 2013 are operating in distinctly separate legal, policy and operational frameworks. The four categories of media are:

- (a) Print media e.g. newspapers and magazines with easy conditions of entry for publishers and editors, without differentiation between authentic, credible print media and on the other, a large number of "dummy publications". Both types enjoy high levels of freedom of expression and in many instances also receive substantial benefits from Government-controlled advertising, irrespective of whether a newspaper is a genuine newspaper with a credible level of circulation or it is a merely token, ceremonial publication whose circulation may not exceed 100 or 500 copies a day but, because of corrupt practices, receives larger volumes of Government-controlled advertising.
- (b) Electronic media: In contrast to the ease of entry into publication for print media, the entry criteria into the electronic media sector are more exacting and more expensive i.e. the need to meet the eligibility criteria specified by PEMRA, the costs of obtaining a licence e.g. Rs.5 million, the costs of equipment and satellite broadcast facilities, the relatively high cost of operating a news channel (whose content cannot be resold or repeated unlike the content of an entertainment channel) etc. In the print media sector there is no longer any State-owned daily newspaper or magazine. But in the electronic media sector, there are PTV and PBC, both of which receive large sums of money from the public (the TV licence fee for PTV) and funds for projects from the Public Sector Development

Programme (PSDP) and the public exchequer e.g. PBC, which receives over 90 % of its revenue as grant-in-aid.

- (c) Social media: Perhaps the easiest sector for entry and the easiest to operate in, at the lowest cost, because even a single individual with a computer and Internet connectivity can maintain a website or a blog. The evolution of Facebook, Twitter, and other dimensions of the Internet have also made it the most participative mass medium with optimal access, except for phases where YouTube is blocked.
- (d) Classical media and Below-the-Line media: Classical media, theatre, books, cinema. Below-theline media: outdoor billboards, posters, handbills, displays, banners, etc. Each of these is not a conventional news medium and each of these is governed by different laws and mechanisms at the Federal and now increasingly, at the Provincial levels.
- 11. In general, there are major discrepancies and variations between, and within the above four categories of media in terms of legislation, regulation and actual operation. While singularity of legislation or regulation for such a wide variety of media will remain elusive and perhaps impractical, there is certainly a need for greater coherence and clarity in the laws and policies that apply to all the above media.
- 12. In terms of regulation of media it is evident that there is regulation but that it suffers from numerous deficiencies. There is also mis-regulation. Regrettably, there is also a marked vacuum or complete absence of regulations. For instance, there is no legal framework for the professional regulation of the advertising sector. There is a need for legally

mandated institutions such as an Advertising Council and an Advertising Standards Authority in view of the strong impact that advertising delivers on media content. There is also a need for legislation to validate and define self-regulation. Just as legislatures adopt Acts to grant charters to universities and educational institutions, there is a dire need for legislature to define the legal and social responsibility parameters within which self-regulation by media should be conducted.

13. If the nine TORs given to the Commission are seen to be primarily related to the role of public institutions and private organizations in the context of news media --- as separate from entertainment media or specialized-knowledge media --- it is pertinent to note that the advent of news media in print, but more so in TV channels in particular is marked by positive as well as some negative factors.

14. Positive facets of news media:

- (I) In place of historic monopoly, a new range of choice for citizens, in news source-brands and in languages: Urdu, Punjabi, Sindhi, Balochi, Seraiki, Pushto.
- (ii) Candid, robust debate on politics and current affairs in Pakistan on a daily basis.
- (iii) Instant news coverage for 24-hours a day, seven days a week, followed by simultaneous, instant analysis and comment, for better or worse !
- (iv) The introduction and development of new talent and skills, on screen and behind the scene.
- (v) Substantial capital investment, creation of new employment opportunities.

- (vi) Wide range of subjects covered despite preoccupation with politics.
- (vii) Access to overseas news media e.g. CNN, BBC, Al-Jazeera etc.
- (viii) Willingness of working journalists to render the ultimate sacrifice: over 20 Pakistani journalists have been killed between 2001 and 2013 in the line of duty, mostly in conflict areas where they have worked without protection.

15. Negative facets of news media:

- Lack of adequate, comprehensive training in print journalism and in broadcast journalism before persons are given the opportunity to become reporters, anchors, news readers, content controllers, etc.
- (ii) Advertisers virtually dictate prime time content preferences by using a narrow, relatively nonrepresentative, heavily urban and consumption oriented rating system to pressurize channels into cutthroat competition and to a lowering of standards of content.
- Excessive commercialism e.g. advertising messages superimposed on screens during unrelated content, prolonged mid-breaks etc.
- (iv) Along with the "breaking news" race, hysteria, hype and trivialization.
- (v) Promotion of acrimony, conflict, grievance.

- (vi) Fragmentation of audiences due to proliferation of choices in place of singular and cohesive sharing of content.
- (vii) Non-transparency in financial aspects of media e.g. advertising rates charged, grants or support received from overseas sources, fees and salaries paid to staff, assets and income of media owners etc.
- (viii) Absence of effective, enforced self-regulation mechanism.
- (ix) Absence of credible, audience-oriented complaints mechanism.
- (x) Excessive use of Indian content on TV and in FM Radio stations, and new surge in dubbed content from Turkey at the expense of Pakistani content.
- (xi) Tendency on the part of some sections of media to conduct criticism of civil and military institutions in terms that are remarkably similar to criticism of the same institution by sections of overseas media including Indian media, thereby adversely impacting internal national cohesion and solidarity during a time when the country faces harsh internal as well as external threats.
- (xii) Inability of PEMRA to enforce discipline due to excessive proliferation of channels (satellite channels plus CD in-house channels of each cable TV Distributor) and due to ease with which stay orders are obtained from the High Courts to suspend the application of penalties for violation of the law and rules.

16. The Commission is of the opinion that both print media and electronic media, individually and through their representative bodies, as also advertisers need to conduct sober, self-critical introspection to review, reform and renew their respective roles and responsibilities.

At the same time, both Federal and Provincial Legislatures, and Federal and Provincial Governments need to conduct a comprehensive review of media-related legislation, policies and rules to remove defects and to update them to contemporary conditions as also to prepare for a rapidly changing future.

In the succeeding Section of this Report, the Commission has identified specific areas and precise measures that could be taken into consideration by legislatures, governments, media, the judiciary and civil society.

(Basic concerns listed by the Commission ends here).

Section-II of Part-Two of the Report

1. Part-Two of the Report is based on the same sources and work methods used to obtain and prepare material for Part-One of the Report i.e:

A. Face-to-face meetings with individuals who represent all the official and private organizations relevant to the scope of the TORs.

B. Similar meetings in person with individual media specialists and representatives of civil society organizations.

Note: All principal observations made by every person who participated in the hearings held by the Commission were recorded in writing. Notes of these observations were promptly prepared for verification and for permanent reference whenever required. These notes are included as Section III of Part-Two of this Report.

C. Review of various texts, documents etc., provided to the Commission by those who met with it.

D. Data and documents obtained by the Commission from official and private sources.

E. Research through websites on the Internet, from journals, and books.

F. Observations and notes by the Commission about content in different media.

G. Contributions received from citizens and forums in response to the advertisements published by the Commission in leading newspapers.

H. Review of the petitions admitted by the Court on matters related to all or some of the TORs.

Findings and Observations by the Commission about TOR No.A based on interviews with 166 individuals and 81 organizations in Islamabad, Karachi, Lahore, Peshawar and Quetta and on other material.

1. TOR No.A:

A. To consider the role of the Ministry of Information and Broadcasting and other Government agencies in ensuring freedom of print and electronic media and whether or not there is information and material brought before the Commission to justify the continued functioning of the Ministry, consistent with Article 19 of the Constitution.

Findings and Observations by the Commission:

2. Article 19 (& 19A) of the Constitution reads as follows:

"19. Freedom of speech, etc.

Every citizen shall have the right to freedom of speech and expression, and there shall be freedom of the press, subject to any reasonable restrictions imposed by law in the interest of the glory of Islam or the integrity, security or defence of Pakistan or any part thereof, friendly relations with foreign States, public order, decency or morality, or in relation to contempt of court, [commission of] or incitement to an offence.

19A. Right to information.

Every citizen shall have the right to have access to information in all matters of public importance subject to regulation and reasonable restrictions imposed by law."

- 3. On the basis of material brought before the Commission on TOR No.A, material both verbally expressed, and in written form, the following three basic, broad perspectives reflect three different views about the role of the Ministry of Information and Broadcasting and other Government agencies in respect of ensuring freedom of print and electronic media and in fulfillment of the spirit and letter of Article 19 and 19-A:
- One perspective was provided by the Federal Ministry of Information and the four Provincial Departments of Information and related organizations and departments under their control.

This perspective, predictably, strongly supported the role of the Ministry at the Federal level and of the Departments of Information at the Provincial level and stressed that there was ample justification for their continued functioning.

- (ii) A second perspective stated by some non-official individuals and organizations as well as by some who are part of the official sector were of the view that there are some negative facets of the Federal Ministry of Information and Broadcasting and the Provincial Departments of Information. For instance, undue and unhealthy control by the Ministry and Departments over the allocation of Government-controlled advertising, and hence exercising undue influence on media content, the control of State media and the use of secret funds. It was stated that these controls should be dismantled or reformed. Subsequent to such changes, both the Federal Ministry of Information and Broadcasting and the Provincial Departments of Information should continue functioning because they would render services required in the public interest.
- (iii) The **third** perspective was offered by non-official individuals and organizations. This consists of the firm opinion that there is

no need for a Ministry of Information at the Federal level nor Departments at the Provincial level, that some of the functions can be transferred to either new forums based on the publicprivate partnership model, or be completely eliminated and that the basic function of projecting an official viewpoint on any given issue should become the responsibility of specialist information personnel or spokespersons based in each Ministry of the Federal Government, and in the various other Departments of the Provincial Governments.

 (iv) Reasons and material offered in support of the first perspective by which the existence and continued functioning of the Federal Ministry of Information and Broadcasting and the four Provincial Departments of Information are said to be entirely justified, comprised elements listed in the following text:

That the Constitution of the Islamic Republic of Pakistan specifically sanctions the existence of the Ministries (and by the information-related Provincial Departments) and thereby legitimizes their role. Reference is made to **Article 70 (4)** which refers to the Federal Legislative List, Fourth Schedule, Part-I, Entry-7 to be read with Article 99 (3) and to be further read with Article 159 of the Constitution of 1973.

4. The text of the Articles and Entries referred to above are as follows:

<u>Article 70 (4), Federal Legislative List, Fourth</u> <u>Schedule, Part-I, Entry-7:</u>

"7. Posts and telegraphs, including telephones, wireless, **broadcasting** and other like forms of communications, Post Office Saving Bank."

Article 99 (3) of the Constitution of 1973:

"99. Conduct of business of Federal Government.

- (1)
- (2)
- (3) The Federal Government shall also make rules for the allocation and transaction of its business.]]"

Article 159 of the Constitution of 1973: "159. Broadcasting and telecasting.

(1) The Federal Government shall not unreasonably refuse to entrust to a Provincial Government such functions with respect to broadcasting and telecasting as may be necessary to enable that Government:-

(a) to construct and use transmitters in the Province; and

(b) to regulate, and impose fees in respect of, the construction and use of transmitters and the use of receiving apparatus in the Province:

Provided that nothing in this clause shall be construed as requiring the Federal Government to entrust to any Provincial Government any control over the use of transmitters constructed or maintained by the Federal Government or by persons authorized by the Federal Government, or over the use of receiving apparatus by person so authorized.

(2) Any functions so entrusted to a Provincial Government shall be exercised subject to such conditions as may be imposed by the Federal Government, including, notwithstanding anything contained in the Constitution, any conditions with respect to finance, but it shall not be lawful for the Federal Government so to impose any conditions regulating the matter broadcast or telecast by, or by authority of, the Provincial Government.

(3) Any Federal law with respect to broadcasting and telecasting shall be such as to secure that effect can be given to the foregoing provisions of this Article.

(4) If any question arises whether any conditions imposed on any Provincial Government are lawfully imposed, or whether any refusal by the Federal Government to entrust functions is unreasonable, the question shall be determined by an arbitrator appointed by the Chief Justice of Pakistan.

(5) Nothing in this Article shall be construed as restricting the powers of the Federal Government under the Constitution for the prevention of any grave menace to the peace or tranquility of Pakistan or any part thereof."

 (i) It is stressed that the Constitutional sanction for the Centre to supervise the functions of Broadcasting has long-established, firm and deep roots in the Constitutional scheme which preceded the creation of the State of Pakistan and the Constitutional schemes which emerged after the Independence of the country.

- (ii) Reference is made to the Government of India Act, 1935, Section 129 by which the subject of Broadcasting empowered the Federal Government to entrust to the Provinces or the Rulers of any Federated states, functions in respect of broadcasting on a need basis. It is also inferred that such power rested with the Council of Ministers led by the Governor-General as per Article 9 of the Government of India Act, 1935.
- (iii) With the birth of the State of Pakistan in August, 1947, the Provisional Constitution retained the relevant sections and thereby sustained the legitimacy of the said Ministry (and the Provincial Departments) up to the introduction of the Constitution of Pakistan, 1956.
- (iv) Reference to the subject (s) of Broadcasting relating to the Ministry of Information & Broadcasting was listed at Serial No.13 of the Central Legislative List in the Constitution of 1956.
- (v) Six years later in 1962, with the Constitution of 1956 having been abrogated in 1958, and the adoption of the Constitution of 1962, the subject of Broadcasting was cited at Serial No.21 of the Third Schedule of the sole Legislative List which pertained only to the Centre.
- (vi) 11 years later, after the disintegration of the original Pakistan in December, 1971, and with the adoption of the Constitution of 1973, in Part-I, Entry-7 in Item No.4 of the Federal Legislative List referred to by Article 70 in the Constitution of 1973, Broadcasting and other forms of communications were recognized as being the mandate of the Federal Government.
- (vii) It is also pointed out in Article 159 of the Constitution

of 1973 that the Federal Government through the Ministry of Information and Broadcasting is to be the sole authority with regard to the entrustment of the functions related to broadcasting and telecasting to any Provincial Government. Further, it is pointed out that Article 99 (3) of the Constitution of 1973 empowers the Federal Government to also make Rules for allocation and transaction of its business. In this context, the Rules of Business, 1973 (Second Schedule, Entry-17) deals with media-related policy and the executive functioning of the Ministry. This is further amplified in Secretariat Instructions - 2005 (Instructions – 38 : Appendix-A, Entry-15) that define the administrative functions of the Ministry in respect of electronic and print media.

- (viii) Referring to the adoption in 2011 of the 18th Amendment to the Constitution of 1973, it is stated that even **after** the devolution of the 17 Federal Ministries and their functions to the Federating units, the Ministry of Information & Broadcasting was **retained** at the Federal level as at Serial No.7 of the Federal Legislative List, apart from being covered by Article 159.
- (ix) It is further stated that the Law & Justice Division of the Federal Government has rendered an opinion dated 17th September, 2012 confirming that the subject of Broadcasting is the Constitutionally-mandated responsibility of the Federal Government and, therefore, the existence of a Ministry concerned with Broadcasting is a historic Constitutional reality which continues to be a legitimate reality. (The opinion rendered by the Law & Justice Division is at Annexure-1).

- It is also pointed out that a sizable number of the 64 laws relating to the media in Pakistan are, and can only be, administered by the Federal Ministry of Information and Broadcasting. (List of Laws at Annexure-2).
- However, it is notable that while the Law & Justice (xi) Division is of the view that there are adequate Constitutional and legal grounds to justify the continued existence of the Federal Ministry of Information & Broadcasting and the four Provincial Departments of Information, in its opinion rendered on 1st January, 2013 (at **Annexure-3**), the Law & Justice Division rendered the opinion that three major mediarelated laws with a national dimension are no longer applicable by the Federal Government outside the Islamabad Capital Territory (ICT). As a consequence of the 18th Amendment, the Law & Justice Division states that the following three laws can be administered by the Federal Ministry of Information & Broadcasting in ICT alone: (a) Press, Newspapers, News Agencies and Books Registration Ordinance, 2002 (XCVIII of 2002) (b) The Press Council of Pakistan Ordinance, 2002 (XCVII of 2002) (c) The Defamation Ordinance, 2002 (LVI of 2002).
- (xii) If the opinion rendered by the Law & Justice Division is deemed to be valid, it appears that there exists a significant vacuum in the legal capacity of the Federal Government to regulate the publication of newspapers, the operation of news agencies and the registration of books, side by side with Provincial laws and rules which may or may not be effectively enforced. This is stated without ignoring the consequences of the 18th Amendment by which the power to regulate the

publication of print media has been devolved to the Provinces. Even in a Federal structure in which the Provinces, as the constituent units of the Federation exercise autonomy, there appears to be a minimal need for a Federal capacity to be used, if only in an emergency.

(xiii) Further, the operational effectiveness of the Press Council of Pakistan becomes questionable if its legal authority is limited only to the Islamabad Capital Territory. The bulk of newspapers and magazines in Pakistan are published outside Islamabad. In the case of persons or organizations aggrieved by defamatory content in media located in the four Provinces, there appears to be no specific legal resort by which redress of a grievance can be sought, except for Section 499 of PPC.

> These anomalies require the earliest possible attention by the new Federal and Provincial Governments scheduled to be inducted into office in June, 2013.

- (xvi) Related media regulations are covered by Governance Books used by the Federal Ministry, these being the Rules of Business, 1973, Secretariat Instructions – 2005, Civil Establishment Code – 2008 Edition and the Establishment Manual – 1998 Edition.
- (xv) Referring to the direct or indirect relationship between the Governments of advanced countries and the subject of media and information, it is contended that in the United Kingdom, the Central Office of Information existed up to 2012 in order to provide communications and marketing support to the British Government. The office was abolished in 2012 due to budgetary cuts and

it now functions under the Prime Minister's Cabinet office.

Reference is also made to the US Government funding of the Voice of America (VOA) network of the USA which is, by law, mandated to project information only **outside** the United States in order to promote friendly relations with overseas countries and build global support for the USA.

- (xvi) It is stressed that India, being the largest democracy in the world, continues to maintain the Ministry of Information and Broadcasting as a subject of the Union Government in New Delhi. The Indian Information Ministry has 24 departments, organizations and functionaries to administer.
- (xvii) Referring to the Organization of Islamic Cooperation (OIC)'s countries, a sample selection of 25 of over 50 member-States are listed as examples where Ministries of Information or Ministries of Culture (covering Information as well) continue to exist in 2013. Such countries include Afghanistan, Egypt, Indonesia, Iran, Jordan, Kuwait, Lebanon, Libya, Malaysia, Morocco, Palestine, Saudi Arabia, Tunisia, Turkey (with a Radio & Television Supreme Council, not a Ministry), Yemen, Bahrain (with an Information Affairs Authority), Oman, Qatar (with Departments and agencies), Syria, Bangladesh, Gabon, Maldives, Brunei, Nigeria and Kazakhstan.
- (xviii). Certain non-Islamic countries are also cited as instances of major nation-States where Ministries of Information exist, with recognized functions either under the name of the "Ministry of Information" or

under the names of "Ministry of Culture/Arts/Heritage/Media" etc. but the latter of which partially, or substantially perform the role of an official oversight entity for the media sector. Such countries include the following examples, with notes quoted from accessed websites :

China

Ministry of Industry and Information Technology (MIIT) of the Government of the People's Republic of China, is the state agency of the People's Republic of China responsible for regulation and development of the postal service, Internet, wireless, broadcasting, communications, production of electronic and information goods, software industry and the promotion of the national knowledge economy.

Web: http://www.miit.gov.cn/



Thailand

Thailand has a well-developed media sector, especially by Southeast Asian standards. Compared to other countries in the region, the Thai media have historically been relatively free, although the government has always exercised considerable control, especially over broadcast media.

Web: http://thailand.prd.go.th/index.php



Philippines

The Office of the President is responsible for managing the government's policy toward the press, but freedom of speech and freedom of the press are enshrined in the 1987 Constitution.

Web: http://www.gov.ph/directory/presidentialcommunications-operations-office/

Kenya

The **Media Council of Kenya** is an independent national institution established by the Media Act, 2007 as the leading institution in the regulation of media and in the conduct and discipline of journalists in Kenya. Prior to the Media Act 2007, the Media Council of Kenya was a self-regulatory body formed in 2004 by media stakeholders to regulate the media and prevent Government from creating a regulatory body. It was only after agreements between the Government of Kenya and the Media stakeholders in Kenya that it was converted from a Self-Regulatory to a Statutory body in 2007.

Web: http://www.mediacouncil.or.ke/ Ministry of Information and Communication. Web: http://www.statehousekenya.go.ke/government/

http://www.statehousekenya.go.ke/government/infor mation.htm



Ghana

The media of Ghana, now one of the most free in Africa, has previously undergone a series of government overthrows by military leaders and periods of severe restriction. Chapter 12 of the 1992 Constitution of Ghana guarantees freedom of the press and independence of the media, while Chapter 2 prohibits censorship.

The Ministry of Information has existed under different names since independence in 1957. Its new name is The Ministry of Information and Media Relations.

W e b : http://www.ghana.gov.gh/index.php/governance/mini stries/317-ministry-of-information-

- (xix) In every Member-State of the South Asian Association for Regional Cooperation (SAARC) including Pakistan, which is a founding Member of SAARC since 1986, there exists a Ministry of Information either known by that name, or by a name similar to it.
 - Afghanistan: Ministry of Information and Culture.
 A 2004 media law prohibits censorship, but requires registration of periodicals with the Ministry of Information and Culture; in 2005 some 250 periodicals were registered. The Afghan Ministry of Information and Culture is the Afghan Government Ministry in charge of Culture, Tourism, Publishing Affairs and Youth Affairs.

Website address of the Ministry of Information Afghanistan.http://moic.gov.af/en

Bangladesh: The Ministry of Information.

An Overview

This Ministry transacts its business through some next step agencies like Press Information Department (PID), Bangladesh Betar, Bangladesh Television (BTV), Department of Mass Communication (DMC), Department of Films & Publications (DFP), Bangladesh Film Archive (BFA), Press Institute of Bangladesh (PIB), National Institute of Mass Communication (NIMC), Bangladesh Sangbad Sanstha (BSS), Bangladesh Film Development Corporation (BFDC), Bangladesh Film Censor Board and Bangladesh Press Council. It has also conducted its extra-territorial activities through the press wings stationed in Washington DC, New York, London, New Delhi, Islamabad & Calcutta. Website of Ministry of Information http://www.moi.gov.bd/

Bhutan: Ministry of Information and Communication.

In July 2003, the Ministry of Communications was bifurcated to form two Ministries- the Ministry of Information and Communications and the Ministry of Works and Human Settlements. The creation of a new Ministry of Information and Communications was aimed at tapping the potential of rapid development in the ICT field and to also give greater attention to the development of media, transport and civil aviation sector.

Mandate:

MoIC is responsible for:

Development of an efficient, reliable information and communication systems to help transform Bhutan to an information society;

Promotion of ICT in the country as an enabler of national development;

Development of safe and progressive national transport system; and

Development of a safe and sustainable civil aviation sector that meets the national needs and international standards.

The Ministry is the lead Government agency in Bhutan for formulation and implementation of policies, drafting of legislation and acting on behalf of the Royal Government on the matters related to ICT and media, surface transport and civil aviation.

Website of the Ministry of Information and Communication Bhutan

http://www.bhutan.gov.bt/index.php

http://www.moic.gov.bt/

• **India:** Ministry of Information and Broadcasting.

- I. Broadcasting Policy and Administration
- 1. All matters relating to radio and television broadcasting within the Union including regulation of the use of All India Radio and Doordarshan by recognised national and regional political parties during elections to the Lok Sabha and State Assemblies and procedure to be followed by the official electronic media during periods of national mourning on the demise of a high dignitary.
- 2. The enunciation and implementation of the law relating to radio and television broadcasting in India by private Indian companies or Indian nationals.
- 3. Broadcast Monitoring and Administration of the Prasar Bharati (Broadcasting Corporation of India) Act, 1990 (25 of 1990).
- 4. All matters relating to the Indian Broadcasting (Programme) Service and the Indian Broadcasting (Engineering) Service until they are handed over to Prasar Bharati.
- II. Cable Television Policy
- 5. Cable Television Networks (Regulation) Act, 1995 (7 of 1995).
- III. Radio
- 6. All business connected with All India Radio embracing news services in the home programmes, programmes for the foreign countries and Indians

overseas, radio journals, research in the field of broadcasting engineering, monitoring of foreign broadcasts, programme exchange and transcription services, supply of community receiving sets to State Governments under the community listening scheme, etc.

- 7. Development of radio Broadcasting throughout the Union, installation and maintenance of Radio Stations and Transmitters and operation of broadcasting services.
- IV. Doordarshan
- 8. Exchange including cultural exchange of television programmes.
- 9. Development of television throughout the Union, including installation, maintenance and operation of television Programme Production Centres and Transmitters, and operation of television services.
- 10. Promotion of production of television programmes outside Doordarshan.
- V. Films
- 11. Legislation under entry 60 of the Union List, viz., 'Sanctioning of Cinematograph films for exhibition'.
- 12. Administration of the Cinematograph Act, 1952 (37 of 1952).
- 13. Import of feature and short films for theatrical and non-theatrical viewing.

- 14. Export of Indian films, both feature and short films.
- 15. Import of unexposed cinematograph films and various types of equipment required by the film industry.
- 16. All matters relating to film industry, including developmental and promotional activities thereto.
- Promotion of good cinema by institution of State awards for films produced in India and assistance through the National Film Development Corporation Limited.
- Production and distribution of documentaries and newsreels and other films and film strips for internal and external publicity.
- 19. Preservation of films and filmic materials.
- 20. Organization of International Film Festivals in India and participation of India in International Film Festivals abroad.
- 21. Organization of Film Festivals under Cultural Exchange Programmes.
- 22. Film society movement.
- VI. Advertising and Visual Publicity
- 23. Production and release of advertisements on behalf of the Government of India.
- VII. Press

- 24. Presentation and interpretation of the policies and activities of the Government of India through the medium of the press.
- 25. Advising Government on information problems relating to the Press, keeping Government informed of the main trends of public opinion as reflected in the Press and liaison between Government and the Press.
- 26. Publicity to and for the Armed Forces.
- 27. General conduct of Government relations with the Press excluding the administration of sections 95 and 96 of the Code of Criminal Procedure, 1973 (2 of 1974).
- 28. Administration of the Press and Registration of Books Act, 1867 (25 of 1867) relating to Newspapers.
- 29. Administration of the Press Council Act, 1978 (37 of 1978).
- 30. Allocation of Newsprint to Newspapers.
- VIII. Publications
- 31. Production, sale and distribution of popular pamphlets, books and journals on matters of national importance for internal as well as external publicity, with a view to imparting to the general public at home and abroad upto-date and correct information about India.
- IX. Research and Reference

- 32. To assist the Media Units of the Ministry of Information and Broadcasting in collection, compilation and preparation of material involving research into published works, etc.
- 33. Building up of a compendium of knowledge on important subjects and to prepare guidance and background notes on current and other topics for the use of the Media Units of the Ministry.
- X. Miscellaneous
- 34. Publicity for the policies and programmes of Government of India.
- 35. Administration of Journalists Welfare Fund.
- 36. Financial assistance to distinguished musicians, both vocal and instrumental, dancers and dramatists who have contributed substantially to the success of All India Radio and other units of the Ministry or their survivors in indigent circumstances.
- 37. All matters relating to the Asia-Pacific Broadcasting Union, Commonwealth Broadcasting Association and the Non-Aligned News Agency Pool.
- Cadre management of the Indian Information Service (Groups 'a' & 'b').

XI. Attached and Subordinate Organizations and Prasar Bharati

39. (a) All India Radio;(b) Doordarshan;© Press Information Bureau;

(d) Directorate of Advertising and Visual Publicity;

(e) Publications Division;

(f) Office of the Registrar of Newspapers for India;

(g) Central Board of Film Certification;

(h) Films Division;

(i) Directorate of Film Festivals;

(j) National Film Archives of India;

(k) Directorate of Field Publicity;

(1) Song and Drama Division;

(m) Research, Reference and Training Division;

(n) Photo Division;

(o) Principal Accounts Office;

- (p) Central Monitoring Service.
- XII. Autonomous Organizations
- 40. (a) Film and Television Institute of India, Pune;
 (b) Satyajit Ray Film and Television Institute, Kolkata;
 (c) Children Film Society of India;
 (d) Indian Institute of Mass Communication;
 (e) Press Council of India;
 - (f) Federation of Film Society of India
- XIII. Public Sector Undertakings
- 41. National Film Development Corporation Limited.
- 42. Broadcast Engineers Consultants (India) Limited.

Website of Ministry of Information, India http://www.mib.nic.in/

Maldives: Department of Information.

Maldives has a Department of Information which works under the Ministry of Tourism Arts and Culture.

The Department of Information was first formed as Ministry of Information and Culture on 11th November 1993 to take charge of the functions of the Department of Information and Broadcasting after its abolition on the same day.

On 14th July 2005, the name of the Ministry was changed to Ministry of Information and Arts and Mr. Mohamed Nasheed was appointed as the Minister. Two years later, on 31st October 2007 the Ministry's name was once more changed, this time to Ministry of Legal Reform, Information and Arts. With this change a National Law Reform Commission was established, which would function under the Ministry of Legal Reform, Information and Arts.

On 11th November 2008 President Mohamed Nasheed was sworn-in. Under his administration, the Ministry's functions were brought under the Department of Information which functions under the Ministry of Tourism, Arts and Culture.

Nepal: The Ministry of Information & Communications. Government of Nepal

Background:

The Ministry of Information & Communications (MOIC) in its present name was formed in the year 2009.

The Ministry widely covers postal services, telecommunications, broadcasting, Press & Information and Film Development.

Objective:

To develop and expand the information & communication sector up to the rural level in the form of infrastructure for social and economic development through wide spread participation of the private sector as well with emphasis on the dissemination of information and communication technology.

Mandate:

1. To inform the public about the economic and social activities of the country and promote the democratic culture so as to safeguard and promote the freedom of expression and the right to information of the people and to ensure the institutional development of democracy while upholding the sovereignty, territorial integrity and national independence as well as the dignity of Nepal.

2. To make the communications media efficient so as to make citizens conscious by creating an environment of equality, mutual goodwill and harmony among the various tribes, languages, classes and religious communities in such manner as the people in general may, on the basis of the rule of law, enjoy the benefits of democracy peaceably.

3. To make the communications media active so as to facilitate the protection and consolidation of the basic norms and values of the sovereignty of the people and the National Unity while according top priority to the national interest. 4. To make the information and communications sector active so as to preserve the various aspects of national identity and significance, as well as to secure peoples participation, international cooperation and goodwill in the process of all round development of the nation by creating public awareness.

Website

Ministry of Information and Culture http://www.moic.gov.np/acts-and-regulations.php Department of Information Nepal http://www.doinepal.gov.np/ Government of Nepal http://www.nepalgov.gov.np/

Sri Lanka: Ministry of Mass Media and Information.

Ministry of Mass Media and Information Vision Mission Website of the Ministry of Mass Media and Information http://www.media.gov.lk/english/index.php? lang=en Institutions coming under the purview of the Ministry of Mass Media and Information

Sri Lanka Press Council

Sri Lanka Press Council is a statutory institution established under the Sri Lankan Press Council Act No. 05 of 1973 which comes under the purview of the Ministry of Mass Media and Information. A code of Ethics for journalists has been introduced as rules by the Gazette Extraordinary No 162/5 A of 14th October 1981.

(xx) **Pakistan**:

The Federal Ministry of Information and Broadcasting of the Government of Pakistan comprises the following departments and supervision/control, etc. of State media organizations:

- 1. Internal Publicity Wing
- 2. External Publicity Wing
- 3. Press Information Department
- 4. Audit Bureau of Circulation
- 5. Pakistan Broadcasting Corporation
- 6. Pakistan Television Corporation
- 7. Associated Press of Pakistan
- 8. Pakistan Electronic Media Regulatory Authority
- 9. Information Services Academy
- (xxi) The viewpoint of the Federal Ministry of Information and Broadcasting in Pakistan justifies its own existence and recognizes the need for improvement and reforms to meet new conditions. This is expressed in the following four paragraphs submitted to the Commission (and amended only marginally by the Commission to ensure correct syntax) etc.

Quote:

Redefining the Role of M/o I&B (from the Ministry's own viewpoint):

One of the most important tasks of Government is to provide clear, truthful and factual information to citizens. Government communication has a widelyheld and long-established reputation for delivering high impact and innovative communication. Government communication embraces two separate but complementary areas of activity: communication with the media; and communication directly with the public. Whatever their specialty, all Government communicators work towards the same goals of informing the public about their rights and responsibilities, and helping people access Government services, understand government policy and keep them updated. The Federal Government in Pakistan thus has to have a Central Information Machinery to communicate with media, public and world community. Below explained are the two models that offer a range of workable solutions:

- a. One is the British & the other US model. The British model known as the Government Communication Network is closer to our requirements. The mandate of the Information Ministry as defined under the Rules of Business 1973 is in no way different from the tasks being performed by British Government Communication Network.
- b. The Government communication role cannot be restricted to issuing press releases or disseminating information to Press / Media alone. Rather they are required to work across the whole range of communication profession: from Public Relations to advertising and marketing; from stakeholders' management to social media management. Media in Pakistan has expanded with an unimaginable speed. The induction of most modern technologies, intrusive behavior of anchors and journalists and the requirement to feed the channels 24 hours a day have pushed the Government into a defensive mode. The Government machinery has failed to cope with those developments both in terms of financial and human resources as well as training. It is therefore imperative to revamp the Government media outfits through

induction of more financial resources in HR training and upgradation of existing technological facilities.

c. The US model of Public Diplomacy is more relevant for our functioning abroad in the Pakistan Missions. The External Publicity Wing's name smacks of propaganda and sounds like propagating "officially certified Truths" only. It is therefore important to rename and remodel this Wing on the pattern of US Department of Public Diplomacy, by redesigning its functions and retraining its human resource.

Unquote.

Summary by the Commission of arguments supporting Perspective One i.e. to justify the continued functioning of the Ministry, consistent with Article 19 of the Constitution:

- 1. That the scale of complexity of both the Federation of Pakistan and four Provinces in terms of territory, population, demography, economic activity, agriculture, industry and the service sectors, aspects of governance, communication, infrastructure, internal and external security, the daily work of the legislature, the executive and the judiciary – all these facets of the nation's existence and progress generate an enormous volume and variety of data and details.
- 2. That the collection of such information, the sifting from this raw data of the more significant elements, the processing of this information into coherent forms and the dissemination by the system requires specialized skills, professional experience, exclusive focus and organizations dedicated to the precise requirements relevant to all the above phases of the information sector and that such capacity cannot be diffused and segmented into different parts of the Federal Government, or the Provincial Governments, because of the very specialized and professional requirements of information-handling.
- 3. That the need for a Ministry of Information & Broadcasting at the Federal level and supportive Departments/agencies of Information at the Provincial levels is the result of a need recognized in the specific function of Broadcasting regulation by the structure of government in South Asia even **before** the Independence of Pakistan. This was evident in the Government of India Act, 1935 by its reference to the Broadcasting dimension in particular and was consistently thereafter reinforced by Constitutional and legal instruments, right up to 2011, when the 18th Amendment was adopted.

Simultaneously, the evolution of an "Information" dimension in the nomenclature of the Ministry reflected the increase in the scope and significance of the printed Press, Radio Broadcasting and later, Television during the 1950s, 1960s and 1970s.

- 4. That the existence of a single focal point in the second decade of the 21st century for formally articulating the viewpoints of the Federal Government and all the Provincial Governments respectively, **ensures coordination, consistency and clarity,** and prevents confusion and distortion.
- 5. That the system by which the Federal Government and the four Provincial Governments recruit officers and personnel for Government service provides for specialized training and capacity building of such persons to be able to meet the exact requirements of the complex and rapidly changing Information sector.
- 6. That, because of the vigorous exercise of freedom of expression by both privately-owned print media and electronic media in Pakistan as per Article 19 of the Constitution, the continued existence and functioning of the Federal Ministry of Information and the Provincial Departments of Information **do not**, **in any way**, **impede or obstruct the fulfillment of the rights** of citizens defined by Article 19.
- 7. That with regard to the allegation that the centralized control by the Press Information Department of the Federal Ministry of Information over the placement of advertising on behalf of all Government Ministries, attached departments and organizations in print media in particular : such control only serves to ensure that advertising reaches targeted audiences and that media are selected on the basis of relevance to the objectives of advertising on a particular subject, while also ensuring that print media published from non-metropolitan

regional locations also receive a reasonable, modest share of revenue of Government-controlled advertising.

- 8. That, whereas prior to 2008, during non-democratic phases of the country's history, and sometimes even during democratic phases, the Ministry of Information and the Provincial Departments of Information were used to prevent print and electronic media from exercising freedom of expression, onwards of the new civil, political, democratic dispensation which commenced in 2008, the official information machinery has fully supported and facilitated freedom of expression by all media.
- 9. That with the advent and dominance of privately-owned electronic media in particular, along with the continued existence of privately-owned print media and in view of the large volume of news and analyses produced by such private media which are mostly critical of the policies of the Federal and the Provincial Governments in office at any given time, the need for a minimal institutional presence at the Federal and the Provincial levels to articulate the formal viewpoints of the Governments-of-the-day **becomes even greater, so as to ensure balance** and provide the people with the official viewpoints on policies and issues.
- 10. That every Member-State of the 8-Member SAARC (South Asian Association for Regional Cooperation) of which Pakistan is a founding Member, virtually every Member-State of the 54-Member Organization of the Islamic Conference (OIC), of which Pakistan is also a founding Member, and many other States around the world including one of Pakistan's closest allies and friends i.e. the People's Republic of China, as also countries as varied as South Africa and Kenya in Africa, contain Central or Federal Ministries of Information, or organizations with either Ministerial-level mandates to

specifically provide policy directions for the media sector or a Council, etc. which fulfill, broadly speaking, functions similar to that of the Ministry of Information & Broadcasting in Pakistan. That therefore, **Pakistan is in line with several dozens of other countries,** many of which are also democracies and which are of the opinion that the Ministries or Departments of Information provide essential institutional arrangements for the Information sector of their respective countries. Summary by the Commission of arguments for Perspective Two i.e. that certain parts of the Federal Ministry of Information and the Provincial Departments of Information should be dismantled/abolished or reformed, and subsequently the Federal Ministry and the Provincial Departments of Information should continue to exist.

1. That the present status of the Audit Bureau of Circulation (ABC) which certifies the number of copies sold by newspapers and magazines, thereby providing the basis for the allocation of Government-controlled advertising to such print media, should be **changed** from being an attached Department of the Federal Ministry of Information into the following alternative structure:

On the lines of a public-private partnership, the composition, powers, functions, authority for certification etc. should be conducted under the control of **a re-vamped ABC** in which the representative body of the newspaper publishers i.e. All Pakistan Newspapers Society, plus one or more forums of private, independent, professionally reputed Accountants and Auditors, **and** representatives of the Government render the same duties as being presently provided by an entirely Government-staffed and controlled ABC.

That with such a newly re-constituted structure for ABC, irregularities in the certification of the number of copies actually printed, malpractices like corruption-related imbalances in the allocation of Government-controlled advertising to print media, etc. would be removed because of the checks-and-balances present in the proposed alternative structure for ABC and that, therefore, there would be far more credibility given to figures of circulation of actual sale of newspapers and magazines.

It is learnt that discussions have recently been initiated between APNS and the Ministry of Information & Broadcasting to examine options for a joint publicprivate approach to the subject of circulation audit, and to certification. We urge that this process be accelerated.

- 2. That the existing centralized advertising control policy operated through the Press Information Department **be abolished** and that each Government Ministry, Department, organization etc. be authorized to select print and electronic media most suited to their own communication objectives and that while doing so, due care be taken by each such Government entity to provide a reasonable percentage of their advertising budget to small-scale, regional print media and that this minimal allocation to regional media be part of a declared policy.
- 3. That consequently, the Press Information Department should continue to function as the single focal point for gathering information about the State, Government and society which it is meant to serve and that it should disseminate such information to the media and the public at large. As per this view, a reformed PID could help project news and views **without bias or distortion** but simply reflecting the position of the Governments-of-the-day, at the Federal and Provincial levels.
- 4. That the powers of the Ministry of Information & Broadcasting to control the appointment of Chairpersons, Boards of Directors and the Chief Executives of PBC, PTV, APP and PEMRA be replaced by an alternative system through which partisanship in favour of the Government-of-theday be entirely removed. In its place, there be introduced a fair, merit-based appointment process which has bipartisan

political support in Parliament and enjoys endorsement by the media sector and civil society. That consequently, the Ministry of Information & Broadcasting and the Departments of Information inter-act with these State media organizations as above, to provide an over-all **public interest and public service direction**, and provide guidance to these entities in a supportive, facilitative manner, including serving as the functional linkage between these autonomous entities and the Government.

Options for alternative processes to appoint the Boards, Chairperson and Chief Executive of State media entities and their restructuring are provided elsewhere in this Report.

5. That **once such reforms are made**, and related changes also made at the Provincial level, the respective Ministries and Departments **should continue to function** and facilitate information flow on behalf of the State and the Governments-of-the-day **but ensuring that they serve all citizens fairly and equitably** and not only the interests of political parties and leaders holding elected public office.

Summary by the Commission of arguments in favour of Perspective Three i.e. the complete abolition of the Federal Ministry of Information and the Broadcasting and the Provincial Departments of Information.

- 1. That in the 21st century, the generation of information has become so exponential and the nature of media, broadcast media, print media, social media, cell phones etc. – has become so diverse and decentralized that it is beyond the capacity of a Government-run Ministry of Information & Broadcasting and the Provincial Departments of Information, to handle such a barrage of data and material and that the radically-changed relationship between the people and the media should determine the flow of information rather than be controlled, obstructed or distorted by Government entities.
- 2. That there is a well-established, historically proven tendency for misuse of the official Information machinery by the Governments-of-the-day for narrow, partisan purposes. That even after reforms of parts of the Federal and Provincial structures, by their continued existence alone, even in an enervated form, a Federal Ministry of Information and the Provincial Departments of Information would, de facto, represent an inconsistency with Article 19 of the Constitution and, indeed, would violate the rights of citizens to have unfettered access to accurate and truthful information. For example, APP, the principal news agency of the country is solely owned and controlled by the Federal Government. News provided by APP (allegedly) always favours the Government-of-the-day and discriminates against the Opposition and other non-official entities.
- 3. That the increasingly sophisticated and complex skills required to operate in, and manage the diverse and rapidly-evolving technologies in the media and information sectors are **not**

available, for the most part, amongst the personnel serving in the Federal Ministry of Information and Broadcasting and in the four Provincial Departments of Information. That therefore, these official institutions charged with the task of dealing with the contemporary information and media sectors are simply **not professionally capable** of meeting the needs of the time and age and that thus, even the justification for Government to possess an Information management entity is **not** fulfilled by the limited levels of skills and quality available amongst the bureaucracies of the Ministry and Departments.

- 4. In any case, the financial terms and benefits apart from permanence of tenure, pension etc. offered by the Government employment system which applies to the Ministry of Information & Broadcasting and Departments of Information, fails to attract the most competent or appropriate individuals to work in the Ministry of Information & Broadcasting and in the Provincial Departments.
- 5. The control exercised by the Ministry of Information and the Provincial Departments over the selection of advertising agencies and the selection of print and/or electronic media for the placement of Government-related advertising is **inherently over-centralized**, and lends itself easily to misuse, malpractices, discrimination and rampant corruption.
- 6. That the allocation of secret funds to the Federal Ministry of Information enables the Ministry to become a conduit for funds to be used in an illicit and unethical manner so as to covertly influence and distort news content and analytical content in media. Thereby, conveying inaccurate, imbalanced versions of events and actions to the public at large. That such power to use the public exchequer for publicly-undeclared purposes, violates principles and norms, and subverts the letter and spirit of Article 19 of the Constitution.

- 7. That the existence of the Federal and Provincial infrastructures devoted to Information gives **an unfair advantage** to the Governments-of-the-day compared to the political Opposition, inside and outside Parliament, and compared to those other elements of society which are not part of ruling coalitions or the ruling party and do not have access to similar infrastructures of Information.
- 8. That Governments of advanced countries do **not** contain Ministries of Information thereby proving that **one of the preconditions** for countries to become well-developed and advanced as democracies is that they dismantle or abolish those institutions and organizations which are potentially capable of being misused, such as Ministries of Information & Broadcasting, etc.

Recommendations by the Commission regarding TOR No.A:

The following Recommendations have been arrived at after the Findings, Observations and Summaries as recorded in the preceding text of this Section of the Report which deals with TOR No.A:

- 1. The Commission is of the view that the scope and the scale of information, the detail and speed with which information is generated and transmitted by words, images, signs and sounds, the revolutionary changes introduced by digital technology and other innovations, further enhances the importance of Information, for both society and State.
- 2. The unprecedented relationship between information and the people symbolized by the emergence of the cell-phone as a compact hand-held device have converged a wide range of media and systems. These include the telephone, the camera, the computer, the satellite, the internet, battery-powered illumination, email, cinema, TV, radio, newspapers, magazines, books, social media such as Twitter, Facebook, Youtube, etc. Such a phenomenon brings forth unparalleled challenges of change as well as an inescapable responsibility for the State.

It is the State system alone which has the legitimacy and the locus standi to maintain vigilance for the protection of the public interest, including the Information sector. Other parts of a society and a country such as civil society, the corporate sector, the media etc., have valuable and valid roles to render in promoting the public interest. Yet at the same time, each of these sectors also has a distinct viewpoint and self-interest, particular to its own identity. Whereas the State alone brings together all of the different segments within a country and is, therefore, best able to provide an over-all, over-arching vision and the required institutional framework by which the public interest, inclusive of the Information sector, is equitably represented and can be effectively maintained.

Recommendation No. 1

- 3. The Commission is of the view that it is possible to facilitate and ensure freedom of print and electronic media while at the same time preventing the presence of the State and Government through a Ministry or a Department of Information from obstructing such freedom.
- 4. The Commission concludes that the Federal Ministry of Information and Broadcasting and the four Provincial Departments of Information require substantive restructuring by which:
 - (i) certain departments and functions should be either abolished, or significantly reformed, in order to ensure that the continued functioning of this institutional framework does not impede or obstruct the fulfillment of rights guaranteed by Article 19;

For instance, there should be horizontal decentralization and de-control in the selection of advertising agencies and selection of media for advertising by Government entities to replace the existing centralized system with a new accountable, monitored autonomy-based framework.

 (ii) due consideration be given by the next Parliament and the Government towards bringing together under a single new Federal Ministry the sectors of, on the one hand, "Information and Broadcasting" (and conventional mass media) and, on the other hand, the sectors of Information Technology and Telecommunication. To date, these two sectors have been supervised by two separate Federal Ministries. The subject of cinema, historically under the Federal Ministry of Culture (now devolved to Provinces after the 18th Amendment) should also be brought under the purview of the proposed new singular Ministry to ensure effective co-ordination of development and functions of all media.

The United Kingdom was one of the first countries in the world to recognize the new challenges posed by this convergence of telecommunication technology.

In 2003, a new entity known as "Ofcom" was created by the Communications Act, 2003 in the United Kingdom. This entity serves as the single focal point for the sectors of media, information technology and telecommunications.

This singularity ensures coordinated, purposeful, practical policy leadership and supervision by a single Central authority. Till such time that such a radical re-alignment takes place, the need endures to **re-structure** the existing Ministry of Information and Broadcasting on the assumption that the Ministry remains separate from any other Ministry.

The basic changes required have been summarized by the Commission in a preceding text dealing with Perspective Two.

Recommendation No. 2

- 5. The Commission recommends that in order to reflect a restructured Ministry of Information and Broadcasting, new and alternative names be also considered for this Ministry.
 - (i) The traditional association of the title : "Ministry of

Information and Broadcasting" with the production of propaganda for the Government-of-the-day is so strongly identified with a one-sided, power-centric dimension that it would be appropriate to consider alternative names.

- (ii) Further, the term "Broadcasting" has long become redundant because its original application was to the dissemination of radio content. Whereas with the advent of television, "telecasting" became the more accurate term to cover the visual aspect of "broadcasting".
- (iii) But with the rapid growth of the Internet and social media, the dissemination of content is also becoming that of "narrow-casting" as distinct from "broadcasting" i.e. there is now customized content produced and aimed at even a single recipient, along with, say, a million recipients, as in "broadcasting".
- (iv) It is notable that the Caretaker Government of November 1996 – February 1997 changed the name of the Ministry of Information and Broadcasting to the "Ministry of Information and Media Development". This change was a positive step towards re-defining and restructuring the conventional role of the Ministry as a propaganda arm of the Federal Government because it referred to the responsibility of the Ministry to promote the development of media as a whole, rather than refer only to electronic media with the term "broadcasting".
- (v) For inexplicable reasons, after the first two years of the Government headed by General Pervez Musharraf, the name of the Ministry was reverted to the "Ministry of Information and Broadcasting".

- (vi) There are substantive grounds in 2013 to justify considering alternative titles such as :
 - (1) "Ministry of Information and Media Development" or
 - (2) "Ministry for the Media" or
 - (3) "Ministry of Information" or
 - (4) "Ministry of Public Information and Media".

Recommendation No. 3

- (vii) Thus, the Commission recommends that, subject to such changes and other related changes being made, the Ministry of Information and Broadcasting and the four Provincial Departments of Information be retained as parts of the State and governmental structures.
- (viii) The Commission is cognizant of the fact that it will require amendments to the Constitution, laws, Rules of Business and other formal texts to make implementation of these Recommendations possible and that these changes can take place only **after** both the Hon'ble Court and Parliament have endorsed this Recommendation, and support its implementation.

Media Commission Report

TOR No. B

Media Commission Report

Findings, Observations and Recommendations by the Commission on TOR No.B:

"B. To analyze whether and to what extent PEMRA has been able to fulfil its developmental mandate and regulatory functions independently under the PEMRA Ordinance."

Brief historical background:

- 1. Unlike privately-owned print media such as newspapers and magazines, electronic media such as Radio and TV commenced their existence in Pakistan in 1947, and in 1968 respectively, as State-owned entities, entirely subject to Government control.
- 2. This pattern was established by the colonial British government for all areas of South Asia in general and not only for those areas which eventually became part of an independent Pakistan. Due to its ability to transcend the requirement of print literacy, Radio broadcasting was viewed by the occupying British power as a powerful instrument to influence public opinion and, if not Government-controlled, potentially disruptive of the stability required for the continuation of colonial rule.
- 3. Onwards of 1947, this colonial mind-set was inherited, without change, by the first, and by successive Governments in both Pakistan and India: It is notable that even in India, where there was no dictatorial military intervention into the political domain after Independence, All-India Radio and Doordarshan TV commenced as State-owned entities and remained monopolies controlled by the Government-of-the-day until about the mid-1990s when private TV channels and Radio stations began operations and were permitted to be established. State-owned electronic media continue to exist in India as of 2013.

- 4. In Pakistan, the first-ever attempt to permit a fully privatelyowned FM Radio Station and TV channel system to be established was made during the second Government of Prime Minister Mohtarma Benazir Bhutto in the 1993-96 period. However, this attempt represented a blatant misuse of discretionary Executive power and violated all norms and principles of equity and transparency. On the basis of a summary moved by the Ministry of Information and Broadcasting in 1995, approval was afforded by the "competent authority" --- without inviting bids or tenders from the public or interested parties --- to one particular private party to establish and operate the first-ever FM radio channel and the first-ever private TV channel system (known as the Multi-Modal Distribution System, MMDS) in the country, on the basis of exclusivity and in perpetuity !
- 5. On learning of this unprecedented action that violated the fundamental rights of citizens to have fair and equal access to the air-waves, Javed Jabbar and Dr. Mubashir Hassan, as private citizens, submitted a Constitutional Petition under Article 184 (c) to the Supreme Court calling for a cancellation of this discriminatory contract and requested the Court to direct the Federal Government to establish a system and a process by which licences for private electronic media could be obtained by citizens through an open, transparent and fair process.
- 6. After listening to the Petitioner/s in person, and to the Legal Counsel of the Respondents, a Bench of the Supreme Court headed by the then-Chief Justice, Mr. Justice Sajjad Ali Shah admitted the Petition for regular hearing in May 1996. A total of three hearings were held on the Petition. The Hon'ble Court had rendered an initial opinion that the Petition raised important issues of public interest for the first time. The Petition was subsequently overtaken by events but remains pending in the Supreme Court for final disposal.

- 7. In November 1996, after the dismissal of the second Government of Prime Minister Mohtarma Benazir Bhutto, the Caretaker Government established by President Farooq Leghari and headed by Prime Minister Malik Meraj Khalid promulgated the Electronic Media Regulatory Authority Ordinance (EMRA) on 14th February, 1997. This represented the first-ever law in Pakistan which would enable all eligible citizens and entities to have equal opportunity to obtain licences for private radio and TV channels.
- 8. However, the elected Government of Prime Minister Nawaz Sharif which took office in the second half of February 1997 did not convert the EMRA Ordinance into an Act of Parliament by 14th June, 1997 i.e. by the four months' deadline under which an Ordinance, if not converted into an Act, automatically lapses. No similar legislation to replace the lapsed EMRA Ordinance was introduced by the Government up to its removal on 12th October, 1999.
- 9. A Citizens' Media Commission of Pakistan was established in December 1997 to conduct advocacy for the establishment of free and independent electronic media. The date on which the EMRA Ordinance was promulgated i.e. 14th February was observed in 1998 and 1999 as "Electronic Media Freedom Day". The Commission also conducted a number of activities across Pakistan to mobilize public support and to pressurize the Government to introduce private electronic media.
- 10. The military-led Government of General Pervez Musharraf commenced its tenure with a pledge to introduce private radio and TV stations in Pakistan. During the year 2000, the original EMRA Ordinance was circulated for public opinion and, with some major and minor amendments, was approved, in principle, by the Cabinet on two occasions in 2000 under a new title of : "Regulatory Authority for Media Broadcast Organizations (RAMBO) Ordinance".

- 11. However, this version was not formally promulgated.
- 12. Eventually, in March 2002, with a new title i.e. "Pakistan Electronic Media Regulatory Authority Ordinance (PEMRA)", the Government promulgated the law that remains in force as of May 2013. The original Ordinance was amended by the Pakistan Electronic Media Regulatory Authority (Amendment) Act, 2007 (Act No.II of 2007).

Major and minor changes in laws 1997 & 2002/2007

- 13. Whereas the original EMRA Ordinance of 1997 contained 20 Clauses, the PEMRA Act, 2007 contains 40 Clauses. 21 new definitions were added in the Preliminary section, three previous definitions were amended. Several of the new Clauses in 2002/2007 had been included in the 2000 version and other new clauses also appropriately took note of new technological developments since 1997, and also reflected changed objective conditions.
- 14. The interim draft law known as the RAMBO Ordinance, 2000 had already incorporated some positive improvements and amplifications of some provisions contained in the original EMRA Ordinance, 1997. In some functional and explanatory respects, the PEMRA laws, 2002/2007 aptly improved and explained certain operational aspects to reduce the scope for misinterpretation.
- 15. However, the PEMRA laws/Rules as of 2007/2013 have certain fundamentally different provisions from the original EMRA Ordinance of 1997. While the previous law also reflected the dominant role of the Federal Government in constituting and overseeing the Authority, the PEMRA law 2002/2007 **expands** the role, presence and potentially coercive powers of the Federal Government over PEMRA. This dimension **weakens**,

if not completely **erodes** the capacity of PEMRA to be an authentically **independent** body.

- 16. Some of the major changes, for the worse, made in the original EMRA law as presently reflected by the PEMRA law of 2002/2007 are as follows:
 - Whereas the EMRA Ordinance, 1997 in Clause 4 (2) stated: "the Chairman of the Authority shall be a retired Judge of the Supreme Court of Pakistan", the PEMRA law 2002/2007 in Clause 6 (2) states: "The Chairman of the Authority shall be an eminent professional of known integrity and competence having substantial experience in media, business, management, finance, economics, or law".
 - (ii) On the face of it, apart from substituting the desired background of impartiality which is normally associated with a Judge of the superior Courts --- while it should be noted that individuals of integrity and impartiality can also belong to sectors other than the Judiciary --- the new provision theoretically calls for a Chairman whose professional credentials and reputation possess relevant and positive attributes.
 - (iii) In actual practice, however, from its inception in 2002 to date in 2013, a period of 11 years, PEMRA has had five Chairmen who have almost always been directly associated with the Federal Government and its various entities. Never has a single professional from the private sector been appointed to the post of Chairman, PEMRA. To point out this fact is not to undervalue or disrespect the professional credentials of the past Chairmen of PEMRA. While being associated with the Federal Government or its

Corporations, a couple of these individuals have possessed both technical, specialist knowledge of fields related to media and communication such as telecommunication, as also information and media. The same applies to Executive Members of the Authority. Yet, there has also been an instance where individuals who served with distinction in the Police Service of Pakistan and in the Secretariat Group of Pakistan were appointed as Chairmen. There have also been instances where individuals appointed to serve as Regional Directors of PEMRA were also from the Police Service of Pakistan. Even where, as in the present instance in 2013, the Chairman of PEMRA is an individual with a long association with the Information Sector in his capacity as an official of the Government of Pakistan, the extensive past association with the Government accentuates and deepens the State-centric aspect of the Chairman's office at the expense of the desired perception of credible independence, for the occupant of the post of Chairman, and independence for the Authority itself.

- 17. Whereas the original EMRA Ordinance, 1997 provided for the Authority to comprise, in addition to the Chairman, **six** Members of which only two were, in an ex-officio capacity, to represent the Government in their capacity as Secretary, Ministry of Information and Media Development and Secretary, Ministry of Communications, the PEMRA laws of 2002/2007 **increase** the total number of Members of the Authority from **six to twelve**.
 - Of these twelve Members, the law in place now increases the presence of the Federal Government two-fold i.e. from two ex-officio Members to four exofficio Members. These two additional Members

being Secretary, Interior Division and Chairman, Federal Board of Revenue. Note: The third ex-officio M e m b e r is the Chairman, Pakistan Telecommunication Authority in place of the original Secretary, Ministry of Communications. The fourth ex-officio Member remains the Secretary, Ministry of Information and Broadcasting.

- (ii) Sub-Clause 4(A) of Clause 6 of the PEMRA Laws of 2002/2007 also provide for two additional Members to be appointed by the Federal Government on a need basis on the recommendations of the Chairman. As the Chairman has historically been a former senior official of the Government, this additional provision reinforces the dominance of the Government in determining the composition of the Authority.
- In Clause 6, sub clause (3), the number of non-official citizens to be appointed as Members is increased from the number of four as in the original EMRA Ordinance, 1997 to five, including two women.
- 19. Whereas the original EMRA Ordinance, 1997, in Clause 5 dealing with the Tenure of Members, in Explanation (2) stated: "the Chairman and non-official Members shall not be eligible for reappointment", the PEMRA laws 2002/2007 in Clause 7 (1) state that the Chairman and Members "shall be eligible for reappointment for a similar term or as the Federal Government may determine: provided that the Chairman and a Member shall retire on attaining the age of 65 years".

The aim of limiting the tenure of the Chairman and Members to one term only as in the original law was to prevent the power to reappoint from being misused by the Government to influence the policies and actions of the Chairman and Members. By offering the inducement and option for reappointment, the Government has acquired the power to influence the Chairman and Members to take actions in support of the Government-ofthe-day.

- 20. The negative facet of the power of the Federal Government to act on its own authority to the detriment of the independence of PEMRA by unduly prolonging the period in which the body remains without a confirmed, full-time Chairman is glaringly evident in how during 2011 and 2012, for two whole years, the regulatory forum was headed by an "Acting Chairman" who was actually the Executive Member, PEMRA. Regrettably, it fell upon the Hon'ble Supreme Court to declare in its Order of 20th December, 2012 that : "No Chairman of PEMRA has been appointed in accordance with the provisions of the PEMRA Ordinance and particularly Section 6 thereof. Consequently, Dr. Abdul Jabbar is restrained from acting or representing himself as the Chairman or the Acting Chairman of PEMRA". Such negligence by the Federal Government is an injustice to the regulatory sector itself while also being an injustice to the individual forcibly asked to serve as Acting Chairman and to bear the brunt of a restraining Order duly issued by the Hon'ble Supreme Court.
- 21. In the original EMRA Ordinance 1997, in Clause 10 dealing with **Exclusion of Private Monopolies**, in sub clause (3) unqualified emphasis had been placed on the need to ensure that, while granting a licence, undue concentration of media ownership is not created in any city, town or area and the country as a whole so as to discourage (but not prohibit) crossmedia ownership i.e. common ownership by one and the same group, of newspapers, TV channels, Radio stations etc.
- 22. However, within about three years of the enforcement of the PEMRA Ordinance 2002, the interpretation of this cautionary

provision began to be made in a deliberately liberal and flexible manner so as to enable owners of existing media such as newspapers, magazines etc. to also become automatically eligible for obtaining licences for TV channels and Radio stations without regard to whether such enablement of crossmedia ownership would lead to strong dominance by two or three private groups.

23. This de facto change was belatedly given a kind of de jure validation when in 2007, the PEMRA (Amendment) Act was adopted by Parliament. Clause 23 dealing with Exclusion of Monopolies, sub clause (2) reads as follows:

"(2) In granting a licence, the Authority shall ensure that open and fair competition is facilitated in the operation of more than one media enterprise in any given unit of area or subject and that undue concentration of media ownership is not created in any city, town or area and the country as a whole:

Provided that if a licensee owns, controls or operates more than one media enterprise, he shall not indulge in any practice which may impede fair competition and provision of level playing field."

- 24. Perhaps the most important word in TOR No.B is: "independently" which is used to pose the question as to whether PEMRA as a body has been able to truly function independently under the PEMRA Ordinance.
- 25. Given the above facts which reflect the basic changes made in the laws and the rules to vest greater control in the Federal Government over the composition and the operation of the Authority, PEMRA, even to begin with, had extremely limited scope to be a truly independent body.

- 26. One other indicator of how the theoretical independence of PEMRA was curbed and prevented, is how arbitrarily the regulatory authority was moved from the purview of the Ministry of Information and Broadcasting to be placed in the Cabinet Division in 2005, and then two years later, moved back to the Ministry of Information and Broadcasting.
- 27. Yet another revealing indicator of how both civilian-led and military-led Governments have tended to be authoritarian and disregardful of the norms and processes of consultation is the fact that in May-June, 2007, a civilian Prime Minister reportedly completely by-passed the Cabinet before new amendments were introduced to the PEMRA law of 2002/2007.
- 28. One vital requirement for true independence of a regulatory body is that such a body should be **consistent** in its consultative practices rather than be whimsical and arbitrary. Prior consultation with all stakeholders before making changes to the laws, policies, rules and regulations is obligatory because it is incumbent for regulatory public forums to take note of the views and recommendations of all stakeholders. Such prior consultation does not necessarily prevent a regulatory body from taking steps which, in its considered view, are in the supreme public interest. If such steps taken by a truly independent regulatory body are in conflict with the views of one or more stakeholders, such actions taken in the genuine public interest become valid and acceptable because they have been undertaken only after all relevant views and opinions have been noted.
- 29. At this point, it may be useful to refer to elements of consensus on desirable levels of independence of regulatory bodies as expressed in a special workshop on the subject of "Reforming and Enhancing Regulatory Mechanisms for Electronic Media", held in Kuala Lumpur, Malaysia in 2007 on the eve of the 4th

Asian Media Summit attended by over 500 delegates of over 70 countries from around the world representing all principal segments.

30. For example, this important meeting (as described in Dawn in June 2007) agreed "that the regulatory body should also be neutral and impartial to the extent that it be "agnostic" rather than of fixed and declared "ideology" (i.e. not as in religious ideology!). The "agnostic" option is meant to convey that in a rapidly changing technological and social environment it is better for a regulatory body to concede: "I do not know" rather than say: "I know it all". This particular view came from the Chairman of the Australian Broadcasting Commission, which co-exists with as many as 16 different official and professional regulatory bodies, representative associations and forums which have an interface of one kind or another with the regulation and operation of electronic media in Australia.

It was noted that communications technology is evolving at a blistering speed, and that there will always be a gap between new technology and law-making. But at the same time all participants agreed this should not allow corporate interests or partisan, or Government interests, to prevail over the public interest.

Five other principal points also evoked agreement. The need for regulatory bodies to ensure prompt access for the public through multiple forums and not just one, to handle complaints against media.

For the chief executives and directors of regulatory bodies to continuously enhance their individual knowledge and professional capacities without letting seniority become an obstacle to new learning. That, because regulation is inevitable, such regulation will have to take place in 4 forms: Self-regulation (singular as well as collective). Social (by viewers and listeners, and by civil society). By the State, (through Governments accountable to Parliament). And on the global level, through codes for trans-national broadcasters. That regulation is about enablement, and not about coercion and restriction. That both the media and regulatory authorities acknowledge that the values of responsibility, fairness, balance and accuracy are **larger** values than freedom of expression alone."

Developmental mandate of PEMRA:

31. The developmental mandate of PEMRA is expressed in the Preamble to the PEMRA laws, 2002/2007:

"WHEREAS it is expedient to provide for the development of electronic media in order to –

- *(i) improve the standards of information, education and entertainment;*
- (ii) enlarge the choice available to the people of Pakistan in the media for news, current affairs, religious knowledge, art, culture, science, technology, economic development, social sector concerns, music, sports, drama and other subjects of public and national interest;
- (iii) facilitate the devolution of responsibility and power to the grass-roots by improving the access of the people to mass media at the local and community level; and
- (iv) ensure accountability, transparency and good governance by optimizing the free flow of information;"

Assessment of fulfillment of developmental mandate of PEMRA:

- 32. Despite the foregoing facts and factors listed in this Report that, from the inception in 2002 to date in 2013 have prevented PEMRA from being authentically independent of the negative facets of Government-control, it is clearly evident that in certain functional respects, **there has been a notable degree of fulfillment of the developmental mandate.**
- 33. In a fairly short period after its creation in 2002, PEMRA commenced establishing and extending its physical and administrative infrastructure both at its headquarters in Islamabad and through its Regional Offices in the four Provinces. The annual report of PEMRA for the year 2002 (at Annexure-4) describes the several steps taken in the very first year of its existence.
- 34. By way of updating the record, and for the specific benefit of the Commission, PEMRA has provided an 11-page statement (at Annexure-5). This statement includes measures taken by the body to create a regulatory framework. This framework after being updated from 2002, now comprises:
 - i. PEMRA Rules, including a Code of Conduct for Electronic Media 2009;
 - ii. PEMRA (Council of Complaints) Rules 2010;
 - iii. PEMRA (Distribution Service Operations) Regulations 2011;
 - iv. PEMRA (TV Broadcast Operations) Regulations 2012;
 - v. PEMRA (Radio Broadcast Operations) Regulations 2012.

In addition, after consultation with stakeholders, content regulations were also formulated in 2010. But the Hon'ble Supreme Court has set these regulations aside vide its Order dated 15-01-2013 due to the fact that there was no full-time Chairman of PEMRA in the period when these Regulations were prepared.

- 35. Covering the diverse sectoral and technical categories of electronic media, PEMRA has to date, issued 89 licences for satellite TV channels of which 54 are for entertainment channels, 29 for news and current affairs, 4 for education and 1 each for health and agriculture. In the same period of the past 10 years, the body has issued 181 FM Radio licences across the country. 36 are non-commercial licences issued to the educational institutions and Government organizations concerned with awareness-raising and developmental activities. Further, 26 foreign channels have been issued permissions for landing rights i.e. the right to be distributed by Cable TV.
- 36. To facilitate access by viewers throughout the country, a total of 3364 licences have been issued to Cable TV Distributors. Of these 60% are claimed to be for services based in small towns and in rural areas. 5 licences have also been issued for the Multi-Modal Distribution System (MMDS) and two licences for the IPTV mode.
- 37. PEMRA claims that it has thus facilitated access by over 15 million households or about 75 million people/viewers to a wide choice of channels and options. This enables about 85% of all TV homes in urban areas and 60% of all TV homes in rural areas to view a choice of TV channels every day. Through FM Radio, about 78 million people are able to listen to a choice of radio channels.

- 38. By its own estimate, PEMRA claims that it has enabled a cumulative investment in the electronic media sector of US\$ 3 billion, creating direct employment opportunities for over 200,000 people and indirect benefits through such employment to about 700,000 people. The forecast for growth in new investment in the electronic media sector is an increase of about US\$ one billion during 2013.
- 39. Giving detailed figures for each category of actions taken with regard to complaints by the public about violations of the law and rules committed by the licence-holders and Cable TV Operators, fines imposed and fines recovered as well as closures enforced on illegal FM Radio channels etc., PEMRA states that during the past ten years, as an example of its efficiency, 70,250 complaints have been duly rectified out of a total of 70,500 received. However, the Commission did not have the opportunity to examine a representative sample of complaints received and the responses given by PEMRA. Precise figures of all categories of actions taken are contained in the Annexure referred to above.
- 40. Apart from reiterating that PEMRA has fulfilled its duty to provide the people with access to a wide choice of electronic media in less than ten years, PEMRA's viewpoint on different aspects of its work and of how it is misperceived is reflected in the following elements:

Quote:

- (a) "PEMRA is wrongly seen as a "Thaanedaar" whereas we are a regulator, not a coercive or force-based power.
- (b) The basic issue is that in the content of electronic media, PEMRA cannot dictate such content.

- (c) In addition to the PEMRA Code, the media themselves need to formulate and enforce their own Code if the ideal of self-regulation is to be achieved.
- (d) PEMRA goes through different stages of corrective action when licence-holders cross lines: e.g. issue warnings, make direct interventions, outright suspension of a licence.
- (e) It appears that the holders of licences for electronic media want no external regulation. They want to exercise unbridled freedom.
- (f) In TV and Radio channels, in the volume of Indian content shown and in other aspects, there seems to be a willful disregard of rules & regulations by broadcasters.
- (g) With regard to the controversy on the screening of drama serials from Turkey dubbed into Urdu: in principle, PEMRA has no objection as it is reported that content from Turkey is cheaper than local programming. So the people have the right to choose what they want to see. The size of audiences viewing Turkish serials dubbed into Urdu has grown. Is it fair to deprive people of what they want to see? The United Producers Association has the right to object because of the adverse impact that this has on local productions. But surely there will always be a large audience for good quality local productions.
- (h) If stakeholders want PEMRA to be closed down, we do not mind! But surely, there has to be an entity of some kind to regulate electronic media.

- (i) Every time we issue a warning or a notice to a TV channel or FM station, the recipients immediately obtain stay orders from the High Courts and continue their violations.
- (j) There should be separate forums to handle legal cases of electronic media. As stated on pages-59/60 of Part One of the Report by the Commission: As of March 2013, 72 cases are pending, 70 of them in two High Courts, one in the Supreme Court, one in the Muzaffarabad High Court. 45 cases are pending in the Sindh High Court, 20 in the Lahore High Court, 5 in the Islamabad High Court, and such cases have been pending since 2009 and 2010, 2011, 2012 and the first weeks of 2013.
- (k) We have requested the Hon'ble Courts to accelerate the hearings of such cases and to set up special Benches but await the announcement. There is a lack of sufficient case law in Pakistan to provide precedents and guidance. New conditions, new technologies are rapidly evolving and new laws and constantly updated knowledge are required.
- (l) We have noticed that several eminent lawyers are reluctant to handle cases in which the owners of TV channels are respondents.
- (m) Whereas it is said that PEMRA is always ready to conduct raids against cable TV distributors for allegedly airing pirated content from Indian sources and Hollywood movies, PEMRA has failed to stop the continued and increasing sale in the markets throughout Pakistan of illegally imported DTH (Direct-To-Home) set-top boxes from India. It is

estimated that there are already in 2013, about 1.5 million such illicit devices installed in as many TV homes across Pakistan which are freely able to access dozens or hundreds of Indian and other foreign channels. This failure by PEMRA to prevent the broadcast of unlicenced content is reportedly inflicting substantial losses on both cable TV operators and on the proprietors of licenced satellite TV channels who are members of the Pakistan Broadcasters' Association and who have invested large sums to launch and sustain their channels.

PEMRA's view about this charge is that the responsibility to prevent smuggling and sale of illegally imported DTH units is the responsibility of the Customs Service and the Federal Board of Revenue and that PEMRA has neither the mandate to control smuggling of goods into the country nor does it have the resources to deploy the force necessary for such a task.

- (n) PEMRA experience shows that Cable TV Operators/Distributors cause more problems than Members of the Pakistan Broadcasters Association! They operate more than the legally-allowed five of their own in-house CD channels. The areas covered by these 3364 cable operators/distributors is very large and difficult to monitor. On a long-term basis the introduction of digital transmission technology in place of the existing analogue transmission technology could be a viable option.
- (o) Three media firms had submitted bids to introduce DTH (Direct-to-Home) transmission system but the matter became disputed and is presently subjudice. So we will have to wait for the final legal verdict.

- (p) The current PEMRA budget is based on revenue of Rs.700 million per year and expenditure of about Rs.667 million per year. The total staff strength is about 560 persons, with 200 of them at the Head Office in Islamabad.
- (q) The Government elected in 2008 has never asked us to close down any TV channel. In fact on one occasion, the then-Secretary, Ministry of Information and Broadcasting asked us to consult the Ministry before taking drastic action against any TV channel.
- (r) With regard to the issue of financial independence: while we do not receive any funds from the public exchequer, PEMRA does deposit all revenue in the Treasury. This is related to the question of who is, or should be, the Principal Accounting Officer of PEMRA i.e. Secretary, Ministry of Information and Broadcasting as the PAO of the controlling Ministry? Or should the PAO be the Chairman, PEMRA in reflection of the claim that PEMRA is an autonomous regulatory body independent of the Government? PEMRA would certainly benefit if it obtains complete operational fiscal autonomy.
- (s) PEMRA has taken note of unsupported and possibly unverifiable allegations that some TV channels were temporarily "purchased" in advance of the Elections 2013.
- (t) A couple of media houses are reported to have received large grants in the form of advertising contracts from overseas sources. It is said that one such grant is about £ 20 million. Some part of this amount may be for paid advertising, or sponsorship of a programme. The

actual facts are not conveyed to the public or to PEMRA. It is also said that all, or part of this amount is received by an entity which is part of the media group and is used to sponsor non-advertising campaigns. Any attempt by PEMRA to probe such matters immediately leads to claims that there is an attempt to curb freedom of the media and there is always the recourse to obtaining a stay order if an inquiry is held.

- *(u)* Seven licences were revoked for failure to commence broadcast.
- (v) Section 30 of the PEMRA law that deals with "power to vary conditions, suspend or revoke the liecence" in case of violations is not often applied and when PEMRA attempts to apply this section, the offenders immediately get relief from the Courts.
- (w) In the name of religion, there are examples where an entity without obtaining a licence from PEMRA continues to telecast in the name of "Q-TV". Despite the notice for suspension issued by PEMRA, this channel continues to be telecast on the basis of a judicial stay order.
- (x) PEMRA has to manage the difficulties of relationships with Cable TV Operators and PBA, while PBA has once gone to the Sindh High Court against the Cable Operators. PEMRA drafted a paper to reconcile the two parties and called for a meeting but PBA did not participate. So the matter is pending.
- (y) PBA complains about underhand payments and incentives given to Cable TV Operators by some parties in order to place particular channels in the first

10 or 20 slots and thus discriminate against other channels which do not make such payments.

- (z) PEMRA is of the view that channels of a similar genre e.g. sports, news, entertainment, etc. be grouped together in slots by Cable TV Operators so that all have a fair chance.
- (aa) Whenever PBA members have exceeded the time permitted for advertising per hour by PEMRA i.e. 12 minutes of commercials spread over 60 minutes, stay orders have been obtained to prevent PEMRA from enforcing such limits. PEMRA has tried in vain to prevent channels from running commercials after every single ball in a cricket match: to no avail !"

Unquote.

- 41. Emphasizing that PEMRA does function as a body independent of any possible negative effect of being under the control of the Government or a particular Ministry, PEMRA states that, unlike APP, PBC, and PTV in which the Secretary, Ministry of Information and Broadcasting is the Chairman of these three entities, in the case of PEMRA, the same Secretary is simply an *ex-officio* Member of the Authority and not its Chairman.
- 42. To reinforce its claim to be independent of Government control, PEMRA points out that it is not dependent on receiving financial support from the public exchequer and is thus not beholden to the Ministry of Finance. PEMRA states that it generates all its revenue from the licence fees, licence renewal fees and other charges applied by it to organizations seeking PEMRA facilities and services.
- 43. In summary, and without prejudice to the need to separately list

and assess the qualitative and other dimensions of whether PEMRA has fulfilled its developmental mandate, the Commission is of the opinion that between 2002 and 2013, PEMRA has certainly facilitated the transformation of the electronic media landscape of Pakistan. From a paucity of wholly State-owned channels e.g. PBC, PTV and dominantly State-owned channels e.g. Shalimar TV Network (STN), the country now has a vast and varied range of channels and choices. To a significant and positive extent, virtually all the administrative and technical support infrastructure required to facilitate the inception and continued operation of 161 FM Radio channels and 89 satellite TV channels has been ensured by PEMRA.

Flaws and failures in PEMRA's performance:

- 44. A principal stakeholder in the electronic media sector i.e. the Pakistan Broadcasters' Association (PBA) began its comments to the Commission with the strong statement to the effect that: "PEMRA has not been able to fulfill its developmental mandate, its regulatory function independently".
- 45. PBA goes on to make the following statements and allegations:

Quote:

 (I) "It (PEMRA) is used as a tool by Government to tame and control the media. It has failed to stop illegal Indian DTH units that hurt cable operators and air Indian channels and escape tax revenue for Pakistan. There are an estimated 1.5 million illegal Indian DTH boxes in Pakistan and not a single raid has been conducted by and through PEMRA. Yet many raids have been conducted against cable operators by PEMRA. Cable operators screened illegal content because they have to compete with DTH.

- *(ii) PEMRA uses undue pressure also against cable operators as well as channels and tries to influence them and their editorial policies.*
- *(iii) PEMRA also has done nothing to develop media and in fact has done many things to hurt the media industry.*
- (iv) Some members of PBA have considered legal action against PEMRA regarding the grant of a licence to URDU1.
- (v) Also PBA has written to President, Prime Minister, Leader of the Opposition, Chief Election Commissioner and Chief Justice of Pakistan that appointing of Chairman PEMRA should be done like Chief Election Commissioner and with consultation of industry stakeholders like PBA.
- (vi) Also PEMRA should be mandated to increase its transparency in all areas and post on website on weekly basis its findings as to who has paid what license fee, and who hasn't, so that its ability to manoeuvre and use discretion to favour or suppress cable operators or channels is curtailed.
- (vii) PEMRA should also undergo operational audits quarterly by independent third party companies like Ferguson's and KPMG and others firms. The results should also be posted on its website within one week of the report.
- (viii) Lastly, Members of PEMRA should be independently selected and must include a representative from PBA, Pakistan Bar Council, representatives from PFUJ and Pakistan Advertisers' Society, and members of

Parliament nominated by the Leader of the House and the Leader of the Opposition. Such a body will have trust from the general public and its decisions will be given due regard in courts also.

- (ix) The Commission must also recommend that no Government employee or an employee of any Stateowned or controlled corporation should work in any senior position in PEMRA, i.e. at present there are several DGs working in PEMRA on deputation basis from other Ministries or from Ministries of Communications or from PTCL.
- (x) Most importantly, PEMRA because of politics, has not been able to get subscription revenue started in Pakistan even though it is part of the PEMRA Ordinance and law (i.e. a minimum of Rs.2 per channel per subscriber through cable operators). This lack of subscription revenue causes at times an undue bias towards ratings and advertisers. In most parts of the world, including India, media gets 40-50 percent of its revenue from subscription fees paid by viewers.
- (xi) Related to this, the other most important point is that PEMRA has given approximately 125 channel licenses (besides the 5 channels of PTV which are not covered by the PEMRA law) in Pakistan, knowing that most cable operators can show approximately only 80 channels (including 5 in-house CD channels). The answer to this conundrum is within PEMRA as it has openly acknowledged and set its own target that by 2012-2013 it will bring in reforms that will help cable operators to update their cable systems so that the number of channels shown can be increased and channels also will be able to gain more subscription revenue.

(xii) This system is called Digitization of Cable (which includes Conditional Access) and already India has implemented it to a large degree but not a single reform has come from PEMRA regarding it."

Unquote.

46. "The viewpoint of the Cable Operators Association of Pakistan (COAP) which was represented in its meeting with the Commission by a 13-member delegation led by its Chairman, on TOR No.B was expressed in a letter addressed to the Secretary of the Media Commission dated 22nd February, 2013 (at Annexure-6).

In Para-2 of this letter in particular and in other Paras up to the concluding Para No.8 in general, the COAP is extremely critical of leading TV news channels, their proprietors, leading anchors and journalists and strongly condemns the dominant influence of corruption and vested interests in shaping the content of media.

- 47. Notably, there is no reference by name to PEMRA in this written submission to the Commission though there is an emphatic condemnation of irregularities and calls are made for comprehensive reforms.
- 48. During the meeting with the Commission, office-bearers and members of COAP made the following observations:

Quote:

(i) "We, Cable Operators/Distributors are major stakeholders of the electronic media sector of Pakistan and we thank the Court and the Commission for this opportunity to present our viewpoint. (ii) Though there are about 3159 licensed operators/distributors, the actual fact is that, when the unlicensed small scale loopholders/sub-distributors are included we estimate that there are about 15,000 to 16,000 Cable TV Operators/Distributors in total.

> There is clearly an over-saturation of numbers. The Islamabad High Court has issued an order to PEMRA suspending the issuance of any more licenses to cable operators.

- (iii) Many TV news channels do not pay their Reporters, thus encouraging corrupt practices. Some tickers running on screen inform us that they have changed their staff!
- (iv) As PEMRA has become a revenue-generation body, how can it regulate effectively? When revenue becomes the prime aim, it becomes easy to indulge in corrupt practices.
- (v) PEMRA has never performed independently and is vulnerable to too much official, political pressure e.g. from the ruling party or coalition, with their own biases. It is only seemingly autonomous but not actually so with about 617 staff members, PEMRA is overstaffed and oversized.
- (vi) With the high rates of fees which PEMRA charges from us, Cable TV Operators, frequently being revised upwards e.g. in one category, starting with about Rs.700,000 in 2002 to Rs.1.7 million in 2007, it seems that PEMRA is running only on the fees extracted from cable operators.
- (vii) Why is it that PEMRA never raids the office of a TV channel?Whereas it is always ready to raid cable operators !
- (viii) PEMRA places no effective curbs on the content of so-called entertainment. For example, the programmes which show

reenactment of crimes and thus actually encourage some abnormal viewers to indulge in copy-cat behaviour in real life. In some cases, some channels are allowed to get away with very permissive content. The records maintained by PEMRA about actions taken against TV channels are false and misleading.

- (ix) PEMRA has never closed any TV channel that is already functioning. Whereas because most cable TV operators are small and scattered, PEMRA is quick to act against us cable TV operators.
- (x) TV channels hire expensive lawyers and they are given a chance to appear on TV, defend TV channels, get free publicity and then obtain stay orders from the Courts.
- PEMRA has added a new licence category meant for only in-(xi)house CD channels of cable TV operators. In the B-I category, we pay an annual fee of Rs.35,000/- for one channel. For two CD channels, the license fee is Rs.45,000/- per channel. Whereas, for example, a leading TV channel like Geo Entertainment whose estimated annual income from advertising is Rs.150 crores (Rupees 1.5 billion), PEMRA charges that TV channel an annual fee of only Rs.700,000/-But cable TV operators of Karachi are forced to pay amounts ranging up to Rs.4.5 million per year plus Rs.850,000 is charged as annual renewal fee. PEMRA also has raised charges to cable TV operators from Rs.10 per claimed subscriber to Rs.24/- per subscriber. PEMRA also imposes an automatic growth table to assess the increase in the number of household subscribers for each cable TV operator.
- (xii) Whenever the Government wants to put pressure on a particular TV channel, PEMRA is used to pressurize us to change the positioning of a particular channel or to drop it for some time.

- (xiii) Due to the small, cottage-industry scale of our sector, many cable operators are not well-educated or highly educated persons.
- (xiv) The Islamabad High Court has rendered a decision, and not just a stay order preventing PEMRA from issuing new licenses for cable TV operators in order to protect the precious investments already made and to prevent further saturation.
- (xv) Any future license process for cable TV operators should be through open, public bidding. This rule is followed by PEMRA only for FM Radio licenses but not for selling licenses for cable TV distribution or for TV Channels. No public hearing is held about licenses for Cable TV. IHC's order also states that all cable licenses should be reissued. Yet, 256 licenses were issued by PEMRA AFTER this order by IHC but they were cleverly backdated !
- (xvi) For cable TV operators, PEMRA has become worse than the police force !
- (xvii) Whereas print media owners have been given TV channel licenses while allowing cross-media ownership, cable TV operators are not allowed to be given licenses for TV channels except in one or two cases, e.g. the Metro TV channel. Please remember that when CNN began, CNN was a cable TV operator.
- (xviii) There is enormous disparity and discrimination by PEMRA in the renewal fees. E.g. for owners of TV channels, it is Rs.700,000/- per year, for radio channels, Rs.400,000/- per year whereas for a cable TV distributor, it can be Rs.2.2 million and with a limitation of only four years.
- (xix) In Balochistan, due to local factors of violence and insecurity,

many national TV news channels are banned in the Baloch parts of Balochistan because of non-coverage by these TV channels of the situation in that region. Yet the TV channels do not protest publicly. Cable TV operators there face threats from both sides i.e. the extremist elements and the official authorities who want us to distribute the national channels e.g. PTV, which the extremists do not want us to show.

(xx) In Khyber-Pakhtunkhwa, 7 to 8 "Head-end" network operators' offices were blown up due to news bulletins telecast by some TV channels.

On the average, only about 20% of households pay fees to the local cable TV distributors. 80% refuse to pay.

- (xxi) Cable operators in Karachi contribute Rs.80 million to Rs.90 million to PEMRA every year which is far more than what the owners of TV channels pay to PEMRA.
- (xxii) In the two decades i.e. 1980s and the 1990s, before PEMRA, a limited kind of cable TV distribution business had already started by distributing through local cable connections: pirated, smuggled tapes, VHS tapes of banned Indian films or films from Hollywood e.g. in Kharadar, Karachi in 1982-83.
- (xxiii) Because there is no advertising revenue from Balochistan for the TV channels, there is total apathy towards the situation in Balochistan.
- (xxiv) The number of Indian films and Indian content being shown in the in-house CD channels by the cable TV operators is going down because of the illegal and widely available DTH set-top units numbering over 1.2 million being easily available and showing hundreds of Indian and global channels. We have made complaints about this and the fact that the payments are

being remitted to Singapore : yet no action has been taken by PEMRA or by FIA.

- (xxv) The excessive issuance of licenses for TV news channels has made it virtually impossible for cable TV operators to show 30 news channels at the same time.
- (xxvi) The excessive use of "breaking news" by the TV channels and their hysteria is actually damaging the nation's psyche, also due to the undue coverage of violence and terrorism. The behaviour on screen of some TV anchors is revelatory.
- (xxvii) PBA could play a potentially useful role to improve the conditions.
- (xxviii)Whereas PTA has a reasonably low scale of charges, PEMRA uses multiple and variable criteria to extract revenue. It wants as much as 5% of gross advertising revenue earned by cable TV operators from our in-house CD channels and has even put pressure on illegal CD channel operators to obtain such revenue !
- (xxix) Province-wise, there is an inconsistency between Punjab and Sindh in the issuance of licenses for loop-holder licenses.
- (xxx) Whereas there is a limitation of only four channels per media group, yet another channel is supposed to be launched soon by the leading media group of the country while relying on an order of the Supreme Court."

Unquote.

49. Stakeholders and media professionals from sectors other than PBA made the following critical comments about PEMRA:

Quote:

- *(i) "PEMRA has not rendered a truly effective role as a regulator of electronic media.*
- (ii) PEMRA failed to introduce and enforce a revenue generation model and system for TV and FM radio channels by which at least 30 to 40 per cent of their commercial income would come from viewers and listeners. By making TV channel licenseholders totally dependent on advertising revenue, PEMRA has facilitated excessive commercialism of electronic media, with all the attendant distortions. This failure has also enabled advertisers to play an unhealthily dominant role in shaping programme content, timings of telecast and use of an audience ratings system to lower content standards. There are several examples of countries which could have been applied in Pakistan to ensure that the commercial advertising element does not become the dominant factor.
- (iii) From the viewpoint of channel owners, it seems that cable TV operators have a special covert relationship with PEMRA, commencing at the highest level of the body and covering other field operational levels as well. PEMRA allows cable TV operators to be extortionists, virtually blackmailing owners of TV channels by positioning various TV channels according to the degree to which channel owners are willing to accept the demands of cable TV operators.
- (iv) One of the reasons why PEMRA has a special relationship with some cable TV operators is in order to ensure that verbal or secret instructions from the Government to favour or disfavour certain TV channels are conveyed by PEMRA to cable TV operators so that partisan and corrupt objectives are achieved. PEMRA has allowed cable TV operators to become very strong bodies both in the Provinces and at the national level by using them and sometimes, by helping to divide them.

- (v) The decision to allow cable TV operators to run their own 5 to 6 in-house CD channels is a major cause of corruption because pirated Indian and Hollywood content, including very permissive content, is allowed to be screened without any effective checks and balances by PEMRA.
- (vi) Some cable TV operators who are known as "loop-holders" and who directly take fees from subscribers receive the TV signals from "Head- end" operators who download the signals from satellites and redistribute to "loop-holders" e.g. one "Head-end" provider may distribute signals to 400 or 500 "loop-holders". A few months ago, two leading channels such as KTN and Geo TV were dropped by certain cable TV distributors as a kind of retaliation and PEMRA did not take any corrective steps.
- (vii) PEMRA has done little or nothing to ensure that regional language TV channels receive a fair share of advertising revenue, whether this be from Government sources or from the private sector. While it is not PEMRA's duty to ensure fair distribution of advertising to TV channels, a regulator does have the moral and professional duty to pinpoint gross imbalances and encourage fair and balanced distribution of advertising. Regional language channels contribute about 18% of the content accessible to viewers. Yet they receive only 2% of the total advertising revenue.

In 2013, there are eight Sindhi language channels, five Punjabi/Seraiki channels, two Pushtu language channels and one Balochi language channel. This does not include the regional language channels and programmes of PTV. With regard to Codes of Content and Codes of Conduct, we (TV channel owners and FM Radio licensees) discussed in 2009 a draft with a Committee chaired by Justice (R) Fakhruddin G. Ebrahim and submitted the same to PEMRA and then asked them for some changes. The key problem was about the mechanism to implement actions concerning violations of the Code. PBA wanted self-regulatory implementation. Whereas PEMRA wanted a shared process.

- (viii) PEMRA has also failed to introduce a fair, credible and truly independent viewership assessment system (or: a ratings system). The existing methods imposed by advertisers and private firms specializing in audience measurement are narrow, heavily urban-centric, imbalanced and inaccurate.
- (ix) The TV audience measurement system used in Pakistan is actually quite absurd because it provides a kind of minute-tominute rating system which is very misleading. Whereas in India, ratings are released only once a week. While TV channels in general suffer as a result of this imbalanced system, regional language channels suffer the most. PEMRA has taken no action to correct such injustices.
- (x) The intention of PEMRA to charge TV channels as much as of 5% of their gross revenue to provide free income to PEMRA is a gross, crude attempt without justification of any kind because a regulatory body is not supposed to become rich at the expense of the sector which it regulates. PEMRA is not meant to be a profiteering organization but one that is to serve the public interest. With regard to the rule by which 10% of the programme time of TV channels is to be devoted for public service broadcasting: on some occasions, PEMRA has tried to force TV channels to run advertisements inviting applications for job vacancies in the public sector !
- (xi) A glimpse of the professional background of the persons who have served as Chairmen of PEMRA shows that while their respective individual backgrounds and qualifications are respectable and credible in their own spheres, not more than

one or two have possessed direct, first-hand experience of the media sector in general or of the electronic media sector in particular e.g. from PTV or with an overseas broadcasters. Thus, PERMA has **not** been able to benefit from the specialized knowledge and experience of a truly professional broadcaster and regulator as its Head.

- (xii) PEMRA has indiscriminately over-issued licenses for TV channels and FM radio stations. This excess is most evident in the TV news channels sector where far too many channels are operating. The most negative result is that, due to cut-throat competition for higher viewers' ratings and income from advertising, the standards of news and current affairs have suffered.
- (xiii) What is the justification for PEMRA giving approval for landing rights to a foreign TV channel such as URDU1 which reportedly does not even broadcast from or in its own location i.e. Dubai/UAE? The actual owners of URDU1 are said to include Indian nationals. Has PEMRA conducted due diligence to ascertain the bona fides of the actual ownership of URDU1 TV channel? By permitting this Channel to be freely viewed throughout Pakistan, PEMRA is promoting a "fullscale invasion" by Indian and foreign (Turkish) TV dramas at the expense of Pakistan's own productions and TV channels.
- 50. Despite the existence of a category in the PEMRA law by which community-based TV channels and FM Radio stations are to be established, PEMRA has failed to fulfill an important part of its developmental mandate by omitting to issue licenses to community-based organizations and non-governmental organizations.
- 51. *PEMRA is reported to have responded to applications from reputed capacity-building, grass-roots organizations such as*

SPO (Strengthening Participatory Organization), www.spo.pk.org and SPDI (Sustainable Development Policy *Institute*) with the statement that licences will not be issued to NGOs and particularly those that receive funding from overseas sources. To exclude NGOs which render valuable public service is by itself discriminatory. To exclude all entities which receive foreign funding is to ignore the fact that the Federal Government of Pakistan itself receives substantial foreign aid ! All funds provided by overseas sources to NGOs in Pakistan are subject to monitoring and approval, in principle, by the Economic Affairs Division of the Federal Government. As to whether the receipt of foreign funds by *Pakistani NGOs makes them vulnerable to potential negative* foreign influence over media content : there are sufficient safeguards in place in the PEMRA law and rules and in other laws that could be applied to prevent any TV channel or FM Station operated by an NGO to act as a conduit for the covert agenda of overseas countries or agencies.

- 52. In any case, PEMRA permits TV channels and FM stations to sell their time to overseas entities such as VOA (Voice of America) and permits collaboration with BBC to disseminate content within Pakistan. Further, several multinationals whose proprietorship is foreign-based and which remit large sums of profits from Pakistan to overseas headquarters are permitted to profitably market their products and services in Pakistan while competing against Pakistani enterprises which do not have the same advantages enjoyed by multinational foreign corporations. Thus, the discrimination against NGOs by PEMRA deprives the public from benefitting from electronic media content which is driven by public service ideals and not driven by the commercial considerations that dominate all channels.
- 53. It is reported that PEMRA insists on considering applications

only from joint-stock companies registered with the Securities & Exchange Commission of Pakistan. This policy excludes several dozens of highly reputed civil society organizations which are registered as associations, societies, Trusts etc. from being able to operate TV and Radio channels that would serve the public interest cause in many diverse ways."

Unquote

Recommendations by the Commission on TOR No.B for the reform of PEMRA

- 1. (i) Based on a comprehensive appraisal of the original aims expressed in the legislation that introduced private electronic media to Pakistan, and with reference to models of regulatory forums in countries with democratic systems, the Commission makes the following Recommendations for the consideration of the Hon'ble Court and for the consideration of the new National Assembly elected on 11th May, 2013 which, with the already existing Senate, represents the new Parliament of Pakistan.
 - (ii) There is an urgent need to revisit and reconstruct the laws, regulations and rules by which PEMRA exists and functions.
 - (iii) Elements that should shape amendments to the existing laws, or an entirely new law, are represented in certain realities and principles.
 - (iv) These realities are evident in the phenomenon of continuing convergence, and the consequent need for regulation to become relevant to new realities. Smartphones and cell-phones represent the convergence of television, radio, print, cinema, telecommunication, information technology, computers, and the internet, while digitalization opens up new possibilities and increases the range of choices. Whether it is the minimal function of allocating frequencies in the airwaves or whether it is the complex question of defining parameters for content of media (without unduly curtailing freedom of expression), the regulatory institution in Pakistan in the second and third decades

of 21st century should have the capacity to reflect new realities and the means to enforce the principles of fairness, transparency, accountability and independence. This last desirable quality in particular i.e. of "independence" brings us to the **second** element that should shape a review of the existing laws or a formulation of an entirely new law.

- In order to be genuinely independent of partisan influence by the Government-of-the-day which represents the majority in Parliament but does not necessarily represent or ensure representation of the unanimity of Parliament, in order to ensure that a regulatory body is also independent of commercial influence, PEMRA, or any new entity put in place, should be authentically separated from the control of the Executive. The composition of a new integrated regulatory Authority should be such that representation of the conventional mass media sector (e.g. TV, Radio) be adequately ensured in relation to the representation of the telecommunication sector.
- (vi) The power to appoint the Chairman and the Members of the Authority or any other new entity charged with regulation of electronic media and related fields could vest with one of the following two proposed forums:

Option 'A':

A six-person Committee comprising: Speaker of the National Assembly, Chairman of the Senate, Leaders of the House and the Opposition in the Senate and the National Assembly.

Option 'B':

The Prime Minister of Pakistan to select one out of three names proposed by a Committee comprising the Leader of the Opposition in the National Assembly, Leader of the House and Leader of the Opposition in the Senate and three other eminent citizens each representing: civil society, media, non-Muslims to be selected by the Leaders of the House and the Opposition in both Houses of Parliament.

- (vii) The regulatory Authority should be administratively responsible to the Parliament of Pakistan, rather than to a Ministry or to the Cabinet Division.
- (viii) While Pakistan does not possess a Constitutional equivalent of the issuance of a Royal Charter as in the United Kingdom by which, after consultation by the Cabinet (and not with Parliament), the Prime Minster requests the Queen/King to issue a Charter to the BBC, new legislation in Pakistan should, as far as possible, seek to reflect the qualities of autonomy, independence, impartiality and accountability as per the BBC's Charter (at Annexure-7).
- (ix) The third element to shape the new legislative framework should remove the existing segmentation of sectors related to communication as evident in the separate Ministries of Information and Broadcasting, Ministry of Information Technology, Ministry of National Heritage (for cinema), Pakistan Telecommunication Authority, PEMRA, PBC Act, Companies Ordinance, 1984 (applicable to PTV) etc.
- (x) The integrated, well-coordinated, **singular** regulatory

body established in the United Kingdom and known as "Ofcom" provides a pertinent example of the direction in which new legislation in Pakistan can move forward in the interest of reforms. Only individuals with direct experience of one or more sectors relevant to the convergence phenomenon in communication should be appointed to head PEMRA or any other entity which replaces it with the same principles being applied to those appointed to serve as Members of the Authority.

- (xi) While Members of the Authority should ideally not exceed the number of seven or eight persons, the majority should be non-official persons to prevent undue dominance by the Executive pillar of the State through the Government-of-the-day. For example, one or two Secretary-level senior officials of the Government can represent the five or six different parts or Ministries of the Government which are relevant to provide inputs to the policies and functions of the regulatory body.
- 2. Till the time that the proposed new legislation and restructuring of PEMRA is agreed upon and implemented : To encourage and promote the rich reservoir of talent and skills in the Pakistani people for creative drama, entertainment and content with tasteful popular appeal, PEMRA should formulate an appropriate policy that protects producers, directors, writers, actors and other segments of creative professional teams from the unfair impact of foreign content that is dubbed into Urdu and freely broadcast by TV channels, thus, reducing the time, rates and income for indigenous Pakistani talent.
- 3. Concerns and complaints expressed by PBA, Cable TV distributors, advertisers, advertising agencies and other stakeholders should be addressed by PEMRA through regular, structured dialogue with such stakeholders and groups.

- 4. Views held and expressed by civil society organizations, specially forums engaged with women's empowerment, human rights, children's rights, minorities' rights and other advocacy groups about reforms required in PEMRA's policies and actions should be effectively addressed through a process by which PEMRA invites these forums for regular exchanges of views.
- 5. It is recommended that renewed efforts be made for expeditious hearings and disposal of the large number of cases dealing with electronic media on which stay orders are in operation.
- 6. To enable fair, cooperative, non-litigious regulation by PEMRA, Pakistan Broadcasters' Association, Cable TV Operators Association, Pakistan Advertisers' Society, Advertising Association of Pakistan need to review their own existing policies and practices. This should ensure compliance by their members of their respective obligations to render public service duties and provide public interest content. Media should demonstrate complete transparency in rates charged for advertising, in time devoted to commercial content and programming content, and in fulfilling terms and conditions of licenses and other aspects of their social responsibilities.
- 7. Till the transition to digital broadcast technology is completed, PEMRA should freeze the issuance of any more licenses for TV channels because there is already a glut of numbers in analogue-based technology.
- 8. To enable PEMRA to credibly curb the telecast of pirated/smuggled/illicit content from India, USA, and other sources, other government entities, Federal and Provincial such as, the Federal Board of Revenue/Customs, Federal Investigation Agency, Police Forces and Law Enforcement Agencies should take visible actions to prevent the smuggling

and open sale of DTH (Direct-To-Home) set-top boxes from India.

9. PEMRA should be directed to formulate a fair, transparent policy to issue licenses on a non-auction basis, without applying a commercial approach, for community-based electronic media. PEMRA should be directed to revise its discriminatory exclusion of NGOs registered as social welfare associations, societies, trusts, not-for-profit joint-stock companies from being eligible applicants for communitybased electronic media. PEMRA should be directed not to disqualify applicants on the basis that they are the recipients of funding support from multi-lateral institutions such as United Nations Agencies, regional organizations such as European Union or friendly foreign countries. Safeguards can be enforced to prevent community-based electronic media from being used to project content that is violated of the laws of Pakistan and PEMRA's Regulations & Rules to prevent such media from being exploited for covert objectives or being misused by locally-based extremists or hate groups. In fellow Muslim countries such as Indonesia, Turkey, Bangladesh and others, there are large numbers of community-based electronic media which meet the specific need of communities at the grass-roots level. As stated elsewhere in this Report, the Economic Affairs Division of the Federal Government remains fully informed of all overseas aid to Pakistan and to organizations located in the country.

TOR No. C

<u>Observations and Recommendations by the Commission regarding</u> <u>TOR No.C</u>

"C. To determine if it advances or is consistent with the fundamental right under Article 19 ibid to allow the Government or its instrumentalities to be major players in the media through State Television and radio broadcasters."

Article 19 (& 19A) of the Constitution reads as follows:

"19. Freedom of speech, etc.

Every citizen shall have the right to freedom of speech and expression, and there shall be freedom of the press, subject to any reasonable restrictions imposed by law in the interest of the glory of Islam or the integrity, security or defence of Pakistan or any part thereof, friendly relations with foreign States, public order, decency or morality, or in relation to contempt of court, [commission of] or incitement to an offence.

19A. Right to information.

Every citizen shall have the right to have access to information in all matters of public importance subject to regulation and reasonable restrictions imposed by law."

1. A response to this particular TOR No.C is already partly covered by the Observations and Recommendations for TOR No.A. Further, other aspects of TOR No.C e.g. with regard to whether the Government or its instrumentalities should be major players in the media through State television and radio broadcasters will also be partly covered by Observations and Recommendations being made by the Commission for TOR No.D which will follow immediately after this brief section on TOR No.C.

- 2. Nevertheless, the Commission provides a brief comment on this TOR No.C as follows:
- 3. As stated in the section dealing with TOR No.A, the sheer variety and volume of Information in the second half of the 20th century and in the second decade of the 21st century have become so enormous that, even a large, unfettered private media sector cannot do justice to bringing all this information to the citizens of any State.
- 4. The advent of the Internet certainly facilitates increased access to the new ocean of information. But the existing levels of poverty and illiteracy in Pakistan mean that for the next several years, conventional mass media such as TV and radio will remain two of the major sources of information for the average citizen.
- 5. The commercial dimension of private media sets its own priorities by which several categories of information and analysis that are of critical relevance to the public at large do not often get the time, space and attention which they deserve in private commercial media.
- 6. Such subjects include aspects of public education for preventive healthcare as well as data about curative health care, civic and social issues that are not necessarily event-related or of a "sensationalist" nature e.g. the standard of behaviour by citizens on the streets, in motor vehicles at traffic lights, respect for public hygiene, avoidance of unclean habits, respect for the urban and rural environment, ecological values, etc. Such subjects that deserve attention by the media are often either entirely missing from the media or are projected at timings and in spaces where they do not get the focus of the vast majority of media audiences.

- 7. The State, as an entity which embodies a non-partisan representation of the public interest is also required to bring to the attention of the people, from time to time, matters that are of vital national interest pertaining to the security of frontiers, and on some occasions, to threats from external forces. In the past 12 years in particular, since 9/11, and the fall-out from the invasion of Afghanistan borne by Pakistan, in the form of terrorism and severe decline in law and order, the State has also had to take the responsibility to communicate directly to citizens on new internal threats, and related issues of immediate concern as well as of medium-term and long-term significance.
- 8. While private, commercial media owned by citizens of the same State are also conscious of their social and national responsibilities and do provide their own contributions towards raising public awareness about matters that concern State interests and the well-being of all citizens, they are, at the same time, driven by commercial considerations of income, viability and profit.
- 9. Viewpoints received by the Commission from the 166 individuals and 81 organizations interviewed about TOR No.C either reiterated views already expressed by them regarding TOR No.A i.e. as to whether there is a need for a Ministry of Information and Broadcasting, or views were expressed with specific reference to the role of the Government in relation to State TV and Radio alone.
- 10. Thus, to recap: One view about TOR No.C is that, "Yes", that the Government and its instrumentalities have a valid right and role to be major players in electronic media and that this presence is entirely consistent with the fundamental right under Article 19 which it does not contradict in any way. From this viewpoint, it is stated that, particularly with the advent of privately-owned electronic media in Pakistan onwards of

2000-2002 with the predominant content and tone of the private electronic media being extremely critical and harsh about the Government-of-the-day, the presence of the State-owned electronic media under the control of the Government renders the vital and essential role of providing a balance to the otherwise imbalanced volume of negative comment directed against the Government. Further, that State media alone fulfill the need for public interest broadcasting by producing and transmitting content on aspects of citizens' education, health, social issues and on national interest dimensions which do not normally get the required time and attention in the private electronic media which are driven entirely by commercial considerations. Also further that, as the principal, and in some areas, the only terrestrial-based broadcasters in Pakistan, PTV and PBC are the only electronic media that are accessible in virtually every part of Pakistan. Whereas private electronic media such as satellite TV channels distributed through cable TV operators are **not** able to ensure 100% coverage.

As stated in Part-One of this Report dealing with TOR No.F and the section of this Report dealing with TOR No.B, State media such as PBC and PTV have contributed an important, positive share in raising public awareness on basic social sector issues such as education, health, citizens' responsibilities, farmers and workers' needs and aspirations, women's and children's rights, the entitlement of non-Muslims to equal rights and opportunities, the fostering of a national identity and ethos in addition to establishing the foundation for electronic media through the training of thousands of professionals and the production of programming content for information, education and entertainment.

11. Therefore, even up to the time when PBC and PTV remained monopolies in electronic media, they did render a crucial public service role, notwithstanding complete control by the Government-of-the-day.

- 12. At the opposite extreme of the above viewpoint, it is said that, if a country is to become truly democratic which Pakistan aspires to be, then **there is no scope for State media** and for Government-controlled media because such a situation would inevitably and automatically give a partisan Government-ofthe-day unfair control over State media and over financial support to such media through Government-controlled advertising and through grants-in-aid to such media. Whereas private media would be placed at a major disadvantage without similar discriminatory aid. Further, Government-control and State media facilitate the production of propaganda which distorts public discourse.
- 13. The Commission is of the opinion that Article 19 has to be seen in three parts:

Part-I of Article 19 comprises the first part of the Article i.e. "Every citizen shall have the right to freedom of speech and expression, and there shall be freedom of the press......"

Except where State media did not, in the past, or in the present in 2013, enable equitable and fair access by citizens to the airwaves to express diverse viewpoints, the existence of PBC and PTV, per se, did **not** violate this first part of Article 19.

14. It is when we note the second part of Article 19 that there appears to be justification for the existence of State-owned media such as PBC and PTV in order to ensure that the provisos and qualifications which are part of Article 19 are articulated and matters related to such provisos and qualifications are brought to the attention of the people.

This second part of Article 19 reads: "....subject to any reasonable restrictions imposed by law in the interest of the glory of Islam or the integrity, security or defence of Pakistan

or any part thereof, friendly relations with foreign States, public order, decency or morality, or in relation to contempt of court, [commission of] or incitement to an offence."

There are concerns about whether some of the terms used above can be defined with clarity. But be that as it may, suffice it to say here that private, commercial media do not necessarily ensure optimal projection of content relevant to the above subjects.

15. With the addition of Article 19A dealing with the Right to Information, and with particular reference to the proviso contained in Article 19A, the existence of State media helps ensure that the provisos and qualifications and matters arising from these, are brought to public attention as private electronic media may not necessarily render this essential public service duty.

Article 19A Right to Information, reads:

"Every citizen shall have the right to have access to information in all matters of public importance, subject to regulation and reasonable restrictions imposed by law."

- 16. Given the new information environment of Pakistan in 2013 in which the existence of a multi-party Parliament and an assertive superior Judiciary, a growing civil society, private and vibrant media, increasing access to the internet, sufficient checks and balances exist to prevent monopolistic, negative, distortive use of State media by the Government-of-the-day in a manner that would violate the fundamental right under Article 19.
- 17. If reforms proposed elsewhere in this Report to the regulatory dimension of electronic media, and as in the Commission's

Recommendations dealing with TOR No.D, the scope for potential misuse of State-owned electronic media would be significantly, **if not almost entirely eliminated**.

Recommendations on TOR No.C

- Thus, with the pre-condition that the Government --- on behalf of the State --- and its instrumentalities act in a non-partisan, fair and balanced manner, there is justification, in the opinion of the Commission, for the Government and its instrumentalities to be major players in the media through State television and radio broadcasting entities.
- 2. That when such a non-partisan presence is ensured by effective checks and balances and is subject to the principles of transparency, accountability and good governance, such a State presence in media is consistent with the fundamental rights under Article 19. The simultaneous existence of private media independent of State ownership --- and with such media being in rich abundance in Pakistan onwards of 2000 --- enables the fundamental right under Article 19 to be exercised with reasonable --- if not some times, unreasonable ! --- freedom of expression.
- 3. The preferred, indeed the best form for a State presence in the media sector would be to completely transform the Government-controlled entities into autonomous, independent, publicly funded, public service broadcasting entities rather than remain as "State" entities. By using a combination of the fine example of autonomy as in the case of BBC, and by introducing new elements specific to Pakistan after new consultation with civil society, public service broadcasting would fill a large vacuum that currently exists in Pakistan.

Findings, Observations & Recommendations by the Commission on TOR No.D:

"D. To ascertain if PTV, PBC and APP, the recipients of public funding of billions of rupees, have independent in-house management and transparent policies in place which advance the objectives of fairness and even-handedness expected of publicly-funded entities and to determine if there are adequate checks against lop-sided or biased dissemination of information by these publicly-funded entities."

- 1. The viewpoints of PBC, PTV and APP with regard to TOR No.D were provided in writing to the Commission and are placed at Annexure-8, Annexure-9 and Annexure-10. The Chief Executives of these three State media entities also met with the Commission and conveyed their opinions, and responded to questions in person.
- 2. Taking the past five years as a sample period in the history of these entities as reflective of the level of financial support provided by the State and Government, placed below are the relevant figures:

3. PAKISTAN TELEVISION CORPORATION LIMITED **A:** LAST FIVE YEARS GOP BUDGET **OUTLAYAND EXPENDITURE**

		(Rs. in million)		
Sr. No.	Year	Budget outlay	Expenditure	
1	2007-08	-	-	
2	2008-09	-	-	
3	2009-10	1,034,000	1,034,000	
4	2010-11	-	-	
5	2011-12	764,800	764,800	

B:	LAST FIVE YEARS PSDPALLOCATIONS
	ANDACTUAL EXPENDITURE

Sr. No.	Year	PSDP Allocation	Actual Expenditure	Unspent/ Surrenders
1	2007-08	973,945	325.709	648.236
2	2008-09	166.262	32.682	133.580
3	2009-10	411.671	84.251	327.420
4	2010-11	358.713	132.205	226.508
5	2011-12	358.000	109.538	248.462

(Rs. in million)

C: <u>LAST FIVE YEARS GOP'S THE POWER</u> <u>BILL LEVY TRANSFERRED TO PTV</u>

		(Rs. in million)		
Sr. No.	Year	Power Bill Levy		
1	2007-08	2,892.986		
2	2008-09	3,090.501		
3	2009-10	3,724.539		
4	2010-11	4,637.516		
5	2011-12	4,908.562		

PAKISTAN BROADCASTING CORPORATION HEADQUARTERS ISLAMABAD

INCOME AND EXPENDITURE FOR THE LAST FIVE YEARS FOR THE YEARS FROM 2008 TO 2012

INCOME

Rupees in Million

Particulars	2007-2008	2008-2009	2009-2010	2010-2011	2011-2012
Subsidy from Government	1,576.000	1,720.744	1,771.939	2,155.694	2,401.000
Advertisement income	163.408	132.632	148.991	147.281	196.065
Other income	27.905	38.320	28.223	34.530	35.157
Total income	1,767.313	1,891.696	1,949.153	2,337.505	1,632.222

With reference to the data about PTV: For unspecified reasons, 4. whether it was in the year 2007-08, when two-thirds (Rs.648.236 million) of the PSDP allocation (Rs.973.945 million) remained unspent, or whether it was the year 2011-12 when once again two-thirds (Rs.248.462 million) of the allocated amount (Rs.358.000 million) remained unspent and was also surrendered, PTV nevertheless is the singular and monopolist beneficiary of income from the TV license fee. From the year 2007-08, when PTV received an amount of Rs.2.8 billion from this source, to the year 2011-12 when the amount increased by about 80% to become a sum of over Rs.4.9 billion. With income from commercial advertising estimated to be over Rs.2 billion per year, PTV certainly benefits substantially by being the sole recipient of the TV license fees and also spending an additional Rs.109 million in 2011-12 from

its sanctioned allocation under PSDP. PTV certainly is a "recipient of public funding of billions of Rupees".

With regard to the data on PBC : the dependence of PBC on the subsidy from the Government is presently over Rs.2.4 billion per year out of a total income of Rs.2.6 billion per year. Unlike PTV which benefits from the income from TV license fee, PBC does not receive the same benefits from the non-existent/abolished radio license fee. Income from advertising represents less than 10% of its total income. Thus, PBC also qualifies as : "a recipient of public funding of billions of rupees".

5. Where TOR No.D asks for ascertainment of whether these recipients of public funding have independent in-house management, an immediate and categorical response is possible. This response is "No". For the basic and simple reason that the Boards of Directors of all these three State media entities are appointed by the Government-of-the-day and are chaired by the Secretary, Ministry of Information and Broadcasting. Where the Government-of-the-day is directly represented by the individual who is also the administrative Head of the Ministry to which all three State entities report, removes any credible scope for true independence. Even after allowances are made for the fact that the position of the Chairman is a non-executive position and that the presence of the Secretary of the Ministry as Chairman can be construed as being only symbolic and ceremonial, both the reality and the perception of how Governments ensure that their preferred decisions are implemented without obstruction mean that, in actual practice, a non-executive Chairman also becomes decisively influential in enforcing Government control of these State media entities. The Secretary of the Ministry of Information & Broadcasting is also the Principal Accounting Officer for all the organizations under the purview of the

ministry e.g. PTV, PBC, APP. The Secretary also writes the Annual Confidential Reports (ACRs) of the Chief Executives of such organizations, thus reinforcing Government influence on the policies and practices of these Corporations.

- 6. In rare instances, Chief Executives of one or more of these entities have been able to disregard the preferences for decisions conveyed by their Chairmen. But these are the exceptions that prove the rule. The overwhelming trend in all three State media entities is that the will-and-the-whim of the Government-of-the-day determines the policies and actions of the Boards, and of the media entities.
- 7. With regard to whether there are transparent policies in place in these three State media entities to advance the objectives of fairness and even-handedness: the Commission is of the opinion that **there is a mixed record**, with the factor of favoring the Government-of-the-day being the pre-dominant constituent element which shapes such claimed transparent policies.
- 8. For example, except for brief and notable exceptions in 1970, 1988-89, 1993 (during a Caretaker Government tenure) 1996-1997 (once again during a Caretaker Government tenure) when these three State media entities maintained a reasonable balance to provide coverage to all major political viewpoints in the country, the news bulletins of PBC and PTV and the news reports provided by APP to media in general were heavily lopsided in favour of the Government-of-the-day.
- 9. However, in the past twelve years, particularly with the advent of private electronic media and the strengthening of democratic values and practices, in the current affairs programmes of PBC and PTV and in the commentaries and features produced by APP, there is a notable attempt to present a more balanced range

of opinions and analysis, thus making the record **mixed**, **rather than one-sided**.

- 10. In one major respect, State media entities **demonstrate restraint, responsibility, maturity and even-handedness** by abstaining from the production and transmission of "infotainment" programmes which are a common and daily feature of private electronic media. In such infotainment programmes, the vital distinction between news and comments, between facts and opinions is violated. Using wit and satire, caricatures and music, even regular news bulletins of private electronic media present some news and events as farcical sources of mirth. To the credit of State media entities, such tactics and techniques are never normally used.
- 11. Further, with regard to the reporting of violent or tragic incidents such as suicide bombings, terrorism and individual crimes, PBC, PTV and APP exercise far greater care and restraint from sensationalism, than do private electronic media which, for the sake of the ratings game, often abandon norms of maturity and balance.
- 12. In terms of whether PBC, PTV and APP have adequate in-house management processes and systems to apply checks and balances in order to ensure accuracy, the finding is that such professional requirements are fulfilled by these State media entities.
- 13. However, despite the existence of these otherwise professional in-house arrangements, the intrinsic bias to favour the Government-of-the-day in respect of news bulletins does remain an abiding feature of the content produced by these entities.
- 14. When the Executive pillar of the State through the

Government-of-the-day exercises complete --- and not even partial --- control of such State-owned media, there is no possibility whatsoever of such control enabling the existence of true public service broadcasting.

- 15. A basic, broad definition of public service broadcasting is that institutions such as TV and Radio broadcasting organizations should be independent of both exclusive control by Government **and** independent of influence by the considerations of income and profit from commercial advertising revenue.
- This definition obviously immediately raises the question of 16. how such organizations can be financed? There are diverse models available in countries such as the United Kingdom, Germany, Japan and Australia. These models are closest to fulfilling the spirit and letter of public service broadcasting. Even where such models receive State funding, the potentially partisan role of the Government-of-the-day is prevented by the presence of different kinds of checks and balances reflecting principles and practices of accountability, transparency, legislative oversight, recourse to judicial measures, etc. In the USA, channels such as the C-span system, National Public Radio, and related networks even use support from commercial corporations to fund their operations but do so in a manner which enables their editorial policies to remain independent of influence from funding sources. In the BBC model, with the BBC being the sole recipient of the TV license fee, there is no income from advertising as BBC within the UK does not broadcast commercial advertisements. The BBC World TV Service does depend on revenue from advertising because it does not receive income from license fees from its overseas viewers.
- 17. In Pakistan, PTV enjoys the unusual dual advantage of being

the sole recipient of income from TV licenses (the charges being automatically added to every household electricity bill for onward transfer to PTV) as well as revenue from commercial advertising. In addition, for the provision of special services to particular parts of the country or to fulfill directives by the Federal Government, PTV is also the recipient of development grants. Thus, even though PTV does render useful functions as a public service broadcaster by offering programmes that are not normally transmitted by private commercial media, **PTV is not an authentic public service broadcaster** as it practices commercialism in some respects as vigorously as do private media. Further, due to its being completely subject to Government control as well, PTV does not qualify by international standards as a genuine public service broadcaster.

- 18. In the case of PBC, due to a variety of historical factors and due to a gross mismatch between income and expenditure, between staff strength and productivity and other factors, PBC can only continue to function with 90% of its financial requirements being provided as grant-in-aid by the Federal Government. Thus, both from the institutional control perspective, and from a financial perspective, PBC also does not qualify as a genuine public service broadcaster. Notwithstanding some interesting and innovative steps taken between 2009 and 2013 to integrate PBC with the internet and the digital age, the organization remains heavily dependent on Government.
- 19. Unlike the Boards of PBC and PTV, the Board of Directors of APP includes representatives of the Council of Pakistan Newspaper Editors, two prominent media personalities from the private sector and two senior media academics from the Universities of Karachi and Punjab. To a considerable extent, this kind of composition reduces the imbalance in favour of the Government represented by the fact that the Chairman of the

Board is the Secretary, Ministry of Information and Broadcasting. APP's performance record in recent years shows that there is a concerted attempt being made to reduce the historical tendency to unduly project the Government-of-theday. For example, in January 2013, APP released 167 reports regarding the Federal Government-of- the-day and 130 reports relating to the Opposition. Whereas in previous decades, the number of reports about the Opposition in terms of comparison with the Government-related reports was far less.

20. However, for various reasons, APP, like PBC, remains heavily dependent on State funding through the Government-of-theday and thereby **does not qualify as a genuine public service news entity.**

TOR No. D

Recommendations by the Commission on TOR No.D:

- 1. The Commission recommends that consideration may be given by the Hon'ble Court and by the new Parliament to the following options towards attaining the objective of transforming PBC, PTV and APP into organizations that can credibly and consistently serve the public interest while retaining one, or more kinds of institutional linkages with the State:
- 2. Elements that could shape new legislation and policy in order to attain the ideals indicated in TOR No.D are possible from the following:
 - (I) PBC: To introduce an entirely new system and process for the appointment of the Chairman, Chief Executive and the Board of Directors, on lines similar to the new system proposed for PEMRA in Para-1 the section of this Report dealing with TOR No.B. Due to PBC's deep dependence on financial subsidies from the State, such State funding should continue but new checks and balances put in place to prevent such subsidies from becoming a partisan stranglehold.
 - (ii) In the year 2000, a Report was commissioned by a Task Force to propose alternative strategies to make PBC effectively autonomous and less dependent on financial subsidies from the State. There is a need to revisit that Report which was not implemented, as also to incorporate new elements relevant to the new realities and conditions that exist in 2013 and trends which are anticipated in the foreseeable future.
 - (iii) PTV: Unlike PBC which has its own legislative cover through the PBC Act, 1973, PTV is a joint-stock company wholly owned by the State, and registered under the Companies Ordinance, 1984.

The Commission recommends that due consideration be given to reducing the shareholding of the State in PTV by about 75% to reduce it to 25%, or less. That 75% shares be offered to the public at large through the Stock Exchanges of the country and through a special public offering with the conditionality that no single organization/investor/citizen can hold more than 2% (two percent) of the total shares. The aim of dispersing and diffusing ownership of shares so broadly is to prevent any single group from exercising undue control over the editorial policy and programme content. Further, through a system of time-bound rotation, civil society organizations of repute such as those with long-established records of service in the fields of education, health, human rights, capacitybuilding, micro-credit, etc. professional associations, universities etc. could also be given minimal blocks of shares. Owners of TV channels should not be eligible to purchase or control any percentage of PTV shares to prevent conflict-of-interest.

While the State's interests and linkages would be maintained through a continued shareholding by the State, the Government-of-the-day would no longer exercise partisan control of PTV. The public at large, represented by citizens as well as organizations, would gain the opportunity to redirect PTV to become a genuine public service broadcaster.

- (iv) Due consideration would also need to be given towards placing PTV under the purview of the amended and reformed PEMRA law as suggested in the section of this Report dealing with TOR No.B.
- (v) Further, consideration would also need to be given to the need to end the unfair monopoly status of PTV being the sole recipient of the TV license fee and as to whether the license fee should be shared with other TV

channels which are willing to devote a significant part of their programming content to public service subjects as also enable academia-based channels and community-based channels to also benefit from a share of the TV license fee.

- (vi) To make PTV less dependent on the revenue from TV license fee, the staff strength and organization of PTV would unavoidably have to be rationalized and restructured. Models for such reorganization, using concepts such as golden handshakes, etc. are available for possible replication.
- (vii) APP: Consideration needs to be given to the possibility of reducing the State ownership of APP from the present level of 100% to a level such as 25% or less with 75% shares being offered to:
 - (a) the present staff of APP in proportion to years of service, levels of performance with a proportionate reduction/surrender of shares, on retirement/removal from service, etc.
 - (b) on a pattern similar to the one proposed for a new structure for PTV, the offer of limited blocks of shares to the collective representative bodies of media which use the output of APP e.g. All Pakistan Newspapers Society, Pakistan Broadcasters' Association etc.
- 3. The Commission is of the opinion that, given all, or even some of the above proposed changes, the three State media entities of PBC, PTV and APP would become capable of playing a progressive and purposeful role in the information landscape of Pakistan.

TOR No. E

Findings and Observations by the Commission on TOR No.E:

"E. To consider the feasibility of letting the media adopt a self-regulatory code of conduct instead of content regulation, in the light of international standards and best practices."

Findings and Observations:

- 1. Media being inherently diverse in their means of content production, transmission, distribution and receipt of content by audiences, Codes of Conduct necessarily have to be different for different media e.g. for print media, for electronic media.
- 2. With the phenomenon of social media through the Internet and, on the other hand, the convergence of diverse media and technologies into a singular medium like smart-phones or cellphones, the need for separate Codes remains, even as the commonalities between the media grow.
- 3. All Codes of Conduct, regardless of the medium, share the irreducible ethical requirement that, particularly in the case of news media, content should be factual, truthful, accurate, fair, balanced and presented with a sense of responsibility, and be subject to accountability.
- 4. The concept of self-regulation --- in individual conduct, in inter-personal relations, in relationships with the community, State and society is an ideal forever worth striving for.

However, as prophets, philosophers and political statesmen have indicated over centuries of history, the regulation of the self, be this "self" a single human being or a single organization or a set of organizations, requires an external framework of collectively shared values, principles, laws and rules. This framework of self-regulation should be so constructed that it ensures decisions and actions which are cooperative and constructive, not negative or destructive. So that the mechanism by which self-regulation is enforced is accepted **before, during and after** any violations of a Code of Conduct.

- 5. Virtually no aspect of individual or collective conduct is subject only to self-regulation. From marriage to children's rights to property rights to traffic rules to deterring vice: for every single aspect of human behaviour : external, separate and independent regulation defines the framework within which should proceed human behaviour on an individual level, and on an inter-active level with other human beings.
- 6. It is not possible to identify any aspect of individual or institutional conduct that has the freedom or the luxury to operate **only** through self-regulation. Even self-destructive, purely personal, private consumption of cigarettes that harm only the consumer (except other persons through "second-hand" smoking!) are increasingly, the subject of official regulation.
- 7. Should media be the only segment of society permitted to function exclusively through self-regulation, particularly with regard to the content produced and projected by media? Fortunately, even those in favour of self-regulation for media acknowledge that there has to be minimal external regulation to ensure order and coherence at the physical infrastructural level for the media. For example : an external entity has to allocate different frequencies to different radio stations and TV channels for the use of spectrum to transmit their signals. Similarly, an external regulator such as an "Office of Registration" has to prevent the publication of two newspapers owned by two different persons but using the same name, from being published in the same city.

- 8. TOR No.E is, as noted, concerned with the feasibility of selfregulatory Codes of Conduct for **content** regulation, and not as a substitute for physical infrastructure regulation. Let us note the experience of a country with a media sector that has long been far more free --- and far less regulated --- than the media sector of Pakistan. In the United Kingdom, in November 2012, on the conclusion of an inquiry into the role of the Press in the aftermath of the scandals involving the media group owned by Rupert Murdoch (e.g. The News of the World) which included bribes paid by journalists to police personnel, phone and computer hacking by newspapers, invasion of privacy by journalists and photographers, Lord Justice Levison found that **the Press had "wreaked havoc with the lives of innocent people".**
- 9. Decades, perhaps even centuries of freedom of the Press and media, constantly advancing the process of content self-regulation, completely failed to prevent innocent people from becoming the victims of some sections of the Press.
- 10. It does need to be noted that the excesses in this, and in similar cases in the U.K. and elsewhere, were committed by what is called the "tabloid Press" which thrives on real or contrived reports about scandals, sex and sensationalist items. Fortunately, there are other parts of the Press in the U.K. which do **not** indulge in such methods and which advocate the concept of socially responsible self- restraint and self-regulation. Regrettably, the circulation and readership of the tabloid Press is much larger --- and more profitable ---- than the sober part of the Press, a revealing indicator of the negative dimensions of popular tastes and preferences!
- 11. Despite the existence of a non-State, non-governmental watchdog body in the U.K. such as the Press Complaints Commission which represents one form of content self-

regulation, The News of the World was able to commit transgressions over a considerable period.

- 13. In the region of which Pakistan is a part, South Asian countries apply varying frameworks of regulation to monitor the content of media. Whether this be India with 1.2 billion people and the largest democracy in the world, or the Maldives with only 300,000 citizens and 1200 islands, whether this be Sri Lanka with the highest level of literacy in the region or Nepal whose revolution of recent years has abolished the monarchy, the State and the Government provide external, institutional regulation for physical and operational infrastructure as well as different models for content regulation of media. None of the South Asian countries rely **only** on content self-regulation by media. Even where relative autonomy in content self-regulation prevails as in India, there also exists in India, laws such as the Cable Networks (Regulation) Act, 1997 to provide for a broad, official overview for content self-regulation guidelines and rules within which the media sector's own content selfregulation can be applied.
- It is pertinent to take note of content self-regulatory Codes as they presently exist in other countries of the South Asian region. Codes in India, Bangladesh and Sri Lanka are placed at Annexure-11.
- 15. Given the objective conditions in Pakistan, with the content of

news media in particular being especially vulnerable for misuse to promote conflict, destabilization and violence, content selfregulation emerges as **one of the ways** to facilitate content regulation but does not appear to have the capacity to be the sole form of such regulation.

- 16. Collective self-regulatory Codes and mechanisms reflect the following principles:
- (i) The existence of a professionally representative forum in which media organizations are members and accept the over-all discipline required by membership.
- (ii) The formulation, adoption and the practice of the Code is on a collective, voluntary basis and not on an imposed, coercive basis forced upon the forum and its members by an external authority using the law.
- (iii) At the same time, where the law calls for professional media organizations to possess and practice Codes of Conduct, then, even though the source of the Code is external to the representative body, it is accepted and practiced on a voluntary basis.
- (iv) To deal with violations of the Code, the forum uses a mechanism in which the peer organizations participate and determine the veracity of the violations and the applicability of any penalties. Alternatively, the mechanism to deal with complaints includes one or more persons not directly related to the media sector but who enjoy/s the confidence and trust of the members of the representative bodies. For instance, the Press Council of Pakistan is headed by a former Judge of a High Court while the Council itself includes predominant representation of the stake-holders (Press proprietors, editors, journalists) and minimal representation of the Government.

- (v) Whereas, in the case of the Press Complaints Commission of the UK : there are 17 members, a majority of whom have no connection with the Press, to ensure that the PCC is independent of the newspaper industry. Even though the independent Chair of the PCC is appointed by the newspapers and magazines publishing industry and is a person who must not be engaged in any business connected with the publication of newspapers, periodicals or magazines. The PCC of UK has three classes of members : the Chair, Public Members and Editorial (or industry) Members. The Public Members are selected by a Nominations Committee which advertises in a variety of national and regional publications inviting applications from citizens. Details are placed at Annexure-12.
- (vi) In India, the News Broadcasters' Association has established a carefully constructed model for content self-regulation which, while operating within the larger ambit of indicative legislation and rules of Government, facilitates a thorough and comprehensive process. The Press Council of India is also a model relevant for consideration and study. Details are placed at Annexure-13.
- (vii) Complaints and petitions eligible for consideration by the mechanism set up under a content self-regulatory system can be either from an aggrieved party directly affected by a violation of the Code, or by members of the general public who wish to bring a claimed violation to the attention of the mechanism.
- (viii) With regard to corrective or punitive actions, there are different options exercised by different countries. Depending on the degree of the violation committed, corrective actions can be one or more of the following : retraction by the media, publication of a statement of regret or of apology, payment of a fine etc. are three of such options. Where a judicial system as in the UK enables prompt and conclusive hearings on cases involving charges of libel or defamation by the media, the

content self-regulatory mechanisms are not preferred but continue to exist as alternative processes.

- 17. In Pakistan, Codes of Ethics and other operational Codes adopted by the representative bodies and the regulatory bodies for both print and electronic media already exist to provide the conceptual and ethical framework for content self-regulation.
- 18. The Codes of Ethics/Conduct of eleven media and mediarelated organizations in Pakistan, including the official body known as PEMRA have already been placed at Annexure "C" in Part-One of the Report by this Commission submitted to the Hon'ble Court on 21st March, 2013 and, therefore, do not need to be repeated herein.
- 19. The source of financing for the mechanism for content self-regulation determines genuine autonomy and independence of the self-regulator. In the case of the Pakistan Press Council, there is excessive reliance on funding by the Government, instead of funding by the Press proprietary-companies as in the U.K. In the case of Pakistan Broadcasters' Association which deals with content self-regulation for electronic media, there is no funding by the Government.
- 20. But in both cases, progress towards actual, meaningful implementation is extremely slow. This lack of speed is mainly attributed to extremely inadequate funding as in the case of PPC or is attributed to lack of sufficient interest in establishing a complaints mechanism by PBA itself e.g. members of the public remain largely unaware to date about the existence, or otherwise, of a self-regulatory complaints mechanism by PBA. In the case of the official regulatory body for electronic media i.e. PEMRA, actions taken under the purview of the Councils of Complaints are not part of the information in the public domain, especially as part of announcements made in the content of electronic media, even on an occasional or periodic basis.

Recommendations by the Commission on TOR No.E

Recommendation No. 1

- 1. The Commission is of the opinion that it is not feasible to let the content of media be regulated exclusively through content selfregulation even after taking note of international standards and best practices. There is an inescapable, irreducible responsibility and need for the State to provide a legislative framework of guiding principles and norms, with adequate checks and balances that do not curb freedom of expression. Except for certain subjects of hypersensitivity and for subjects that, in any case, deserve circumspection, media in Pakistan already enjoy some of the highest levels of freedom, and of content self-regulation, in comparison to all other predominantly Muslim countries, and in comparison to most other countries in the regions of which Pakistan is simultaneously a part i.e. Central Asia, South Asia, West Asia, Gulf.
- 2. As stated earlier : there has been extensive transformation of the media landscape of Pakistan in the past twelve years (2000-2013) during which telecommunications, electronic media and new technologies have created an unprecedented interface between print media and electronic media. There have also occurred significant social, demographic, economic and environmental changes in the country over the past two decades. Many of the existing 64 media-related laws were framed in previous decades in which conditions were entirely different. There is an urgent need to update and revise several aspects of the general regulatory framework to make the process relevant to these new objective conditions.

Recommendation No. 2

- 3. Therefore, the Commission is of the view that the Standing Committees on Information & Broadcasting of the National Assembly and the Senate establish a Media Laws Review Task Force comprising media specialists, to conduct a comprehensive review over, say, a 6-months period of all media laws, rules, regulations and Codes in the context of the new objective conditions.
- 4. While fundamental ethical values are eternal and universal, the definitions of terms, words and phrases in the context of usage by media and in the context of the immediacy of news coverage requires re-visitation and possible reinterpretation.
- 5. Thus, it would be most timely and useful that purposeful consultation be conducted both within the media sector and with civil society, and with the relevant administrative Ministries and Departments.

Recommendation No. 3

6. The Commission recommends that the Parliamentary Standing Committees and stakeholders initiate such consultations at the earliest in order that a consensus be established with due reference to both the changed media landscape within Pakistan, and with reference to the regional and international contexts. Even where Codes have been drafted or circulated in the past three years as in the cases of PEMRA, PBA, etc. a fresh round of consultation on each aspect of content self-regulation would help update all concerned and facilitate effective mechanisms. The consultations should be initiated with and by each of the representative/regulatory bodies of the media i.e. All Pakistan Newspapers Society (APNS), Council of Pakistan Newspaper Editors (CPNE), Pakistan Federal Union of Journalists (PFUJ), Pakistan Television Corporation (PTV), Pakistan Broadcasting Corporation (PBC), Pakistan Electronic Media Regulatory Authority (PEMRA), Pakistan Broadcasters' Association (PBA), Press Council of Pakistan (PCP), Pakistan Coalition for Ethical Journalism (PCEJ), Pakistan Advertisers' Society (PAS) and Advertising Association of Pakistan (AAP).

- 7. To ensure that such a process is result-bound and time-bound, the Commission recommends that a period of, say, six months be specified at the end of which there should be a consensual agreement on the new Codes.
- Amendments to existing laws and rules and new draft laws could be introduced for possible adoption by legislators during 2014.
- 9. As stated earlier in the Recommendations by the Commission for TOR No.D i.e. with reference to PTV, PBC and APP, as also in other sections of this Report with the election of a new National Assembly and four new Provincial Assemblies, a timely and valuable opportunity is afforded for reviewing all existing legislation with a bearing on the content of the media.
- 10. The Commission recommends that the representative / regulatory bodies of media as named above and, civil society organizations with an interest in media and freedom of information issues as also the Standing Committees of the legislature review the 64 specific media-related laws at the Federal level as well as several other laws that may have relevance to the content of media e.g. laws and rules that should apply to the projection of commercial advertising messages on FM Radio by homeopathic doctors or by any entities claiming to deliver benefits to consumers etc.

Recommendation No. 4

11. The Commission is of the opinion that, to the optimal extent, the funding for mechanisms that administer content selfregulation should be from within the print media and the electronic media, rather than from the Government to ensure authentic independence and credibility of these mechanisms.

Note: TOR No.F has already been covered by the Commission in Part-One of this Report submitted to the Hon'ble Court on 21st March, 2013.

However, briefly, it is necessary to simply list three types of financial benefits and a sectoral feature that could potentially contribute to media-related corruption. These are :

- 1. The tendency of Press Clubs to ask for/be allocated plots of land by the Government-of-the-day, ostensibly to benefit journalists who do not receive high or even reasonable salaries. Beneficiaries from such housing schemes reduce their own capacity to remain truly independent of Government influence.
- 2. The tendency of private media houses to allow Government to pay for all expenses covering the domestic and overseas airtravel, hotel accommodation, ground transportation charges etc. when editors/journalists/camera units are invited to attend briefings, meetings, or to accompany the President, Prime Minister or a Minister for visits. Such acceptance of complimentary support also erodes the capacity for independent journalism.
- 3. Acceptance of secret payments from institutions **other** than the Ministry of Information & Broadcasting in the public sector e.g. other Ministries and Departments, civil and military intelligence agencies or the private corporate sector.

- 4. Cross-media ownership prevents independent scrutiny by print media of the content, standards and policies of the electronic media owned by the same group. And vice versa. While this is not a conventional "corrupt practice", cross-media ownership deprives citizens from access to independent evaluation of the content of various media.
- 5. The Commission would like to stress that, neither in the instances cited in Part-One of the Report dealing with TOR No.F nor in the above instances is there an intention to disregard the fact that there is a notable number of publishers, media owners, editors, working journalists in print and broadcast media and other media specialists who possess integrity and competence of the highest order. They fulfill their responsibilities with courage, character and competence.

The response by the Commission to TOR No.F as provided by the Hon'ble Court is meant to cover those aspects of media and those persons related to the media sector that, regrettably, do not fulfill their solemn obligations with the ethics and the excellence that some others abide by.

TOR Nos. G, H, I

Findings and Observations by the Commission on TOR Nos. G, H & I.

While each of the three TORs named above is listed as a separate TOR, all three are related to the role of the Government in allocating adverting contracts to advertising agencies and media. Therefore, these three TORs are being covered together in this section of the Report.

TOR Nos.G, H & I read as follows:

- **G.** To inquire whether, when giving money to different media houses directly for or on the pretext of advertisements, were the government or its functionaries pursuing a transparent, duly approved, bona fide Government advertisement allocation policy or were the decisions to buy advertisement space with public money made arbitrarily or without objective criteria or to favour particular channels, journalists or media houses.
- **H**. To propose a single, transparent, objective, non-discriminatory policy for allocation of Government advertisements among electronic and print media.
- I. Whether the Federal and Provincial Governments, autonomous and semi-autonomous bodies, Government corporations or agencies adhere to PPRA rules or other transparent processes while granting advertisement contracts to advertising agencies or media houses. If not, then to suggest processes which are fair and transparent and which ensure the greatest value and fairest dissemination of information.

Findings & Observations:

- 1. TOR No.G as above, requires consideration of three questions:
 - (i) Does an official policy exist for the fair and equitable allocation of Government-controlled advertising to advertising agencies and media?
 - (ii) If such a policy does exist, does the actual implementation of the policy suffer from concealed manipulation to favour particular advertising agencies and media?
 - (iii) Is there scope for public money to be used arbitrarily (and, possibly also secretly) to favour particular channels, journalists or media houses?
- 2. With regard to the first question: the response is : "Yes" there does exist a set of written, defined procedures, criteria, documentation requirements and guidelines which, taken together, may be described as a "transparent, duly approved, bona fide Government advertisement policy".
- 3. In its written submissions to the Commission, the Ministry of Information & Broadcasting has provided a section specifically regarding TOR No.G. This section (at **Annexure-14**) cites reference to Chapter-I of the Common Services Manual, 1997 issued by the Cabinet Division and the Rules of Business, 1973 (Schedule – II : Entry-17 : Provision-6) as being the applicable Instructions and Regulations of the Federal Government to conduct the advertisement disbursement operations by the Press Information Department of the Ministry of Information & Broadcasting.
- 4. It is stated that the origins of the advertisement policy practiced

by Government exists in a decision taken by the Cabinet in 1950, subsequently amended and ratified by various Governments in 1964, 1966, 1980, 1983 and 2003. In essence, no individual Government functionary has the authority to make payment directly or indirectly to any media house or publication or to any individual journalist. Nor is any such individual Government functionary authorized to buy advertising space directly.

5. Six aspects of the policy are identified as follows:

- (a) All public sector advertisements are released through the channel of APNS accredited advertising agencies.
- (b) The advertising agencies are selected on the basis of open and transparent competition by the selection committees comprising the representatives of the sponsoring department, PID and an external expert.
- (c) After release of advertisements, advertising agencies submit their claims along with "tear-sheets" to PID, which are verified/scrutinized according to the approved Government rates and specifications given in the sponsoring department's requisition letter and the Departmental Release Order (DRO) issued by PID to the advertising agencies.
- (d) The verified advertisement bills are forwarded to the sponsoring department for issuance of sanction letters in case of those departments whose budget is under AGPR's pre-audit control.
- (e) After getting the necessary sanction letter from the sponsoring departments, the bill, alongwith the sanction letter is submitted to AGPR by PID for issuance of pre-audit cheque in the name of the

advertising agency which consequently makes payment to the publications.

- (f) The advertisement bills of non-AGPR Departments/Organizations after necessary security & verification are forwarded to the concerned departments for arranging payments directly to the advertising agencies, and payment is subsequently made to the newspapers.
- 6. The Commission noted the experience and views of the stakeholders involved in the six aspects listed above. Such stakeholders comprise the Ministry of Information & Broadcasting (through ABC, PID, Internal Publicity Wing, etc.) : advertisers from the Government-controlled sector e.g. PIA, PSO, Benazir Income Support Programme, advertising agencies represented by the Advertising Association of Pakistan (AAP) through both its central, Karachi-based officebearers as well as its Islamabad-based members which predominantly deal with the Government as distinct from the Karachi-based members whose principal dealings are with the private sector, All-Pakistan Newspapers Society (APNS) representing the newspapers and magazines which publish Government-controlled advertising, Pakistan Broadcasters' Association whose members own the TV channels and FM Radio stations that telecast and broadcast Governmentcontrolled advertising, Independent Media Corporation (Pvt) Limited, civil society organizations such as the Human Rights Commission of Pakistan and individual civil society activists in media with a special interest in such issues.

Written statements by some of the above stakeholders as provided to the Commission are placed collectively at **Annexure-15.**

7. Views expressed by the non-official stakeholders regarding the six elements of the existing policy for allocation of Government-controlled advertising need to be noted.

With regard to element (a) i.e. "All public sector advertisements are released through the channel of APNSaccredited advertising agencies": there is general acceptance of the validity of this criterion because advertising agencies accredited with the All-Pakistan Newspapers Society are required to possess factors of institutional stability, accountability to law and official entities and, therefore, have more credibility than non-accredited advertising agencies. However, the powers and controls exercised by APNS over accreditation, suspension and cancellation of accreditation are the source of some concerns in respect of making APNS a cartel-type body that concentrates excessive powers to itself to the detriment of the interests of advertising agencies and advertisers. For example, advertising agencies which do not receive payments on schedule from their clients for onward payment to APNS member publications are liable for suspension by APNS and several such cases occur frequently. Even though APNS does strive to demonstrate appreciation for such periodic difficulties faced by advertising agencies, it is fairly widely held in the advertising agencies sector that APNS uses the accreditation status in ways that are unfair to advertising agencies. Be that as it may, in the specific context of APNS accreditation of advertising agencies being an essential requirement to be selected for placement of Government-controlled advertising works as a positive factor to ensure minimal, credible eligibility.

8. With regard to element (b) i.e. "The advertising agencies are selected on the basis of open and transparent competition by the selection committees comprising the representatives of sponsoring department, PID and an external expert" : It is the

view of many advertising agencies that this element of the policy is often subverted by careful, deliberate, covert manipulation and subterfuge. For instance, even though all eligible advertising agencies are invited to compete for a particular contract, the actual ultimate beneficiary is already predetermined due to corrupt practices. Thus, everyone involved from the decision-making side, goes through the motions of reviewing all proposals and bids received. The covertly pre-selected agency is chosen on the basis of evaluation slanted in its favour. Or, a relatively short notice period is given to eligible agencies to prepare their proposals while the covertly selected agency is given confidential advance notice and enabled to prepare more effectively than those agencies given a short period for preparation. Or/and, the composition of the selection committee is rigged in a manner that favours a pre-selected advertising agency. The basis for pre-selection of the favoured agency is the prevalence of corruption by which the favoured agency either pays cash upfront/in advance to the corrupt decision-makers and recovers its investment later after securing the contract, release of advertisements, submission of invoices, obtaining payments etc.

- 9. With regard to elements (c), (d), (e) & (f) : these aspects of the policy are purely functional and operational by which the proof of advertising having been printed, documented invoices, verification and ultimately payment is obtained. The scope for discretion is extremely limited. Yet, several advertising agencies hold the view that, even when they have to simply obtain cheques legitimately owed to them for completely verified advertising and with invoices exactly as per specifications, bribes and other inducements have to be paid at offices such as PID, AGPR etc. to obtain cheques.
- 10. A non-policy-related but major problem faced by advertising

agencies and media is caused by the tendency of Government entities to authorized release of advertising to media without being able to make payments for such advertising as per the time-frame required by media. Enormous sums of arrears accumulate causing disruption and losses to advertising agencies and media. PID has proposed to all Government entities that they inform PID in advance at the start of each financial year with regard to the actual budgets available with each Government entity for the purpose of advertising. Such advance information in the possession of PID will prevent over-authorization of advertising expenditure and prevent damage being suffered by advertising agencies and media. However, this proposal is not documented as part of the official policy.

- 11. There is a second facet to the existing policy for allocation of Government-controlled policy. This second facet relates to the selection of newspapers and periodicals, as is indicated by TOR No.H i.e. the need for a single, transparent and fair policy for the selection of the media.
- 12. In the written submissions to the Commission by the Ministry of Information & Broadcasting, this aspect is addressed in the document already placed at **Annexure-15** under the title of: "Allocation of Government Advertisements". It is stated that the aims and objectives of the policy by which the print media are selected is based on the Cabinet decision taken in 1950 and subsequently ratified from time to time up to 2003 are:
 - Judicious and transparent disbursement of Government Advertisements to newspapers and journals;
 - (ii) To protect and promote the interest of the regional Papers;

- (iii) To safeguard the interests of the Government Departments/Organizations;
- (iv) To apply a uniform policy for Federal and Provincial Governments.
- 13. In the ten elements that are then listed as the steps by which the above four objectives are achieved, the fundamental determinant becomes the certification of circulation of newspapers and magazines conducted by the Audit Bureau of Circulation which is part of the Ministry of Information & Broadcasting.
- 14. As stated earlier, in this Part-Two of the Report in the section titled : "Summary by the Commission of Arguments for Perspective Two" regarding TOR No.A, there are ample grounds to restructure the Audit Bureau of Circulation (ABC) in order to make certification a credible benchmark for both advertisers and advertising agencies. Options are specified in that section of this Report and need not be repeated at this stage. Suffice it here to say that as long as ABC continues to function as an entity entirely controlled by the Ministry of Information & Broadcasting, there is no possibility of ensuring that TOR No.H can be achieved i.e. a single, transparent, objective, non-discriminatory policy for allocation of Government advertisements for placement in print media.
- 15. Another significant factor which makes the selection of print media unreliable in part is the mushroom growth in recent years of newspapers and magazines which are termed "dummy" publications. As it is extremely easy to launch a publication, it is widely known amongst stakeholders that friends and allies of several persons of influence as well as individuals with dubious credentials have become editors and publishers of newspapers and magazines. Using corrupt practices, such dummy

publications obtain certificates from ABC of inflated circulation to become eligible for receipt of Government-controlled advertising. While the major newspapers and media groups tend to remain the principal recipients of Government-controlled advertising --- except for periods when they are deliberately allocated low quotas --- dummy publications benefit from unduly substantial allocations.

- 16. It is also stated by some stakeholders that, to benefit from the element of the policy by which 25% of the expenditure on buying space has to go to the regional Press, several dummy publications become unfair recipients of Government advertising. They misuse the fact of being located in smaller cities and towns to obtain undue material benefits from the public exchequer. Whereas representatives of the regional Press claim that, because they cater to the precise needs and problems of their local communities, they enjoy levels of circulation and readership which make them fully eligible to receive the 25% quota. In their view, the major newspapers, despite some of them having editions published from or circulated in smaller cities or towns do not do justice to the needs of local communities. Such contrary claims for and against the regional Press and allegations about the large number of dummy publications can only be effectively resolved by an independent, professionally reputed ABC.
- 17. With regard to the second part of TOR No.G: as per verbal statements made to the Commission, despite the existence of an allocation policy on paper, the actual allocation of contracts to advertising agencies and print media in several cases, have been made arbitrarily and unfairly.
- One particular advertising agency by the name of Midas (Pvt)
 Limited is alleged to have been the principal beneficiary of such unfair and discriminatory selection to handle a large

number of Government advertising contracts. Detractors of this company go to the extent of claiming that so well entrenched is the influence of this particular firm that it is even able to arrange for the posting at PID of officials who will "cooperate" with it in order to benefit the firm.

For its part, the Chief Executive of Midas (Pvt) Limited states that allegations arise from professional jealousy of rival agencies or from sources that have hostile relations with particular Government functionaries or with a specific political party or parties in the Federal or Provincial Governments. The father of the CEO of Midas (Pvt) Limited who is the original founder of the Midas group states that he has no business relationship with his sons' enterprises and that he now devotes most of his time to writing and journalism even as he continues to be the Chairman of another company that also uses the name of Midas. One of the two other brothers of the CEO of Midas (Pvt) Limited owns a third Midas-related company which is said to be completely separate from Midas (Pvt) Limited and he states that, in fact, there is direct competition between the two firms owned by the two brothers. Numerous statements and documents supporting opposite views about the role of Midas (Pvt) Limited have been provided to the Commission and are given at Annexure-16.

To remove widespread misgivings as also to clear the name and reputation of persons and firms that may be innocent of allegations, the Commission is of the opinion that this particular instance should be investigated through forensic audit by the relevant authorities at either NAB or any other relevant forum.

19. The Islamabad-based members of the Advertising Association of Pakistan have provided a proposed policy and procedure to achieve the aims outlined in TOR No.G, H & I. This document is already placed at **Annexure-15**.

20. Despite the rapid growth of electronic media in Pakistan after the year 2000, there is no defined policy of the Federal Government or of the four Provincial Governments to determine a fair, objective basis for the allocation of Government advertising to TV channels and FM radio stations. In view of the substantial sums of billions of rupees per annum spent by Government entities on advertising in electronic media, this complete absence of a written policy and the nonexistence of any mechanism in Government similar to the ABC for print media, to establish an objective basis for the selection of electronic media is inexplicable and unjustified. It represents a gross failure to respond to fundamental changes in the media and advertising landscape of Pakistan onwards of the year 2000.

> This lacuna is made all the more strange when it is noted that, whereas the rates for Government advertising in print media are lower than rates for private sector advertising, in the case of TV channels, the rates charged for Government advertising are far higher than the rates charged for private sector advertising. The mystery is compounded by non-transparency on the part of electronic media whereby rates charged for advertising have not been placed on a website that is accessible to the public. PBA has assured the Commission that it intends to place all data regarding rates on its website and the Commission welcomes this initiative and awaits its fulfillment because this would enable Government to formulate a policy for allocation of Government-controlled advertising to electronic media on the basis of transparency and equity.

21. We have so far dealt with two out of the three questions that arise from TOR No.G as stated in Para No.1 of this section. Let us now consider the third question i.e. "Is there scope for public money to be used arbitrarily (and, possibly also secretly) to favour particular channels, journalists or media houses ?"

- 22. Taking into account all the written and verbal statements made to the Commission, the basic answer to this question, regrettably, has to be in the affirmative. Yes, notwithstanding the existence of a written policy for the allocation of Government advertising to print media, and despite Government entities stating that they base their selection of electronic media on the TV audience-measurement system used by the advertising and media sectors of the country, subtle as well as crude methods are used to favour particular TV channels and media houses as well as to discriminate against particular TV channels and media houses when those in public office wish to use such powers.
- 23. As regards journalists, it is already a matter of public record that some part of the secret funds available to the Ministry of Information and Broadcasting have been given to particular journalists. In responding to the directives of the Hon'ble Court, in April 2013, the names of some of these journalists have been published. Names of some other recipients of amounts from the secret funds have been withheld.
- 24. The Ministry of Information & Broadcasting is not the only source for the use of secret funds in the media sector. As submitted to the Supreme Court by the Director-General of Audit in May 2013, secret funds are available with several other Ministries and Departments, civil and military intelligence agencies to be used, as per requirements, to benefit chosen recipients who may include certain journalists and private media houses in order to promote objectives of covert official policies.
- 25. During the disclosure of the names of recipients of amounts from the secret funds of the Ministry of Information & Broadcasting, in addition to the names of individual journalists, the list also included the name of a leading TV channel which, it

was stated, was given a certain amount to produce and project a programme on positive features of Pakistan. While any such secret or covert payments are undesirable and unfair to all other media, the occurrence of this act can perhaps be explained by the fact that the overwhelming part of content in news media, specially TV channels, tends to be critical of the Governmentof-the-day and focuses on the grievances of the public while tending to completely ignore a few but genuinely positive accomplishments of the Government-of-the-day. The attempt to correct this severe imbalance of bad news with merely one programme on a TV channel or a series of such programmes is not justifiable as the selection of the channel to be the beneficiary of public funds was done in a secretive, nontransparent manner.

Recommendations by the Commission on TOR NOS.G, H & I:

- 26. The Commission recommends that aspects covered by TOR No.G be brought to the attention of the Parliamentary Committee on National Security and the Standing Committees of the National Assembly and the Senate on Information & Broadcasting to recommend improvements in relevant polices and procedures so that the positive goals indicated in TOR No.G are achieved.
- 27. In order to conclusively establish the truth or the falsehood of allegations and accusations about corrupt practices in selection of advertising agencies and media for Government-controlled advertising and in view of the scale and frequency with which a particular advertising group is stated to be the undue beneficiary, the Commission is of the opinion that, if the Hon'ble Court deems appropriate, the required directions may be given to conduct an authentically impartial, independent inquiry by a relevant authority such as NAB to determine the veracity, or otherwise of allegations.

- 28. With regard to TOR No.H i.e. the need for a single, transparent, objective, non-discriminatory policy for allocation of Government advertisements among electronic and print media : the Commission took careful note of the valuable suggestions and comments made by all the individuals and organizations with which it interacted.
- 29. The Commission is of the view that the formulation of a formal, written policy is the right and responsibility of the elected Government-of-the-day while being cognizant of public discourse on the subject, the views of all stakeholders, the views of civil society including non-stakeholders and, hopefully, the Findings, Observations and Recommendations contained in both Part-One and Part-Two of this Report by the Media Commission submitted to the Hon'ble Court.
- 30. Nevertheless, it is pertinent for the Commission to identify the following elements that should, in the Commission's view, be the determinant factors for a new policy that is singular rather than multiplistic, transparent rather than opaque, objective rather than subjective, fair rather than discriminatory.
- 31. These determinant factors for a new policy as required by TOR No.H are:
 - (i) Decentralization: This factor would require a fundamental, radical reversal of the centralization which began in 1950 and which was reinforced thereafter for the past six decades. But if the State and the society have taken the decision through Parliament, as they did in 2010, to adopt the 18th Amendment and abolish the Concurrent Legislative List in order to strengthen the Provinces and the Federation, then the factor of decentralization should be applied both horizontally and vertically with regard to how Government-controlled advertising is allocated and

how advertising agencies are selected. This factor would require that each Government entity be enabled to select print and electronic media for placement of its advertising as per its own autonomous decisionmaking process and requirements while remaining subject to accountability and equity.

- (ii) Guidelines by the Federal Government: In place of the operational control exercised in the past and in the present by the Press Information Department and the Provincial Information Departments, Guidelines should be issued by the Federal Government to help make the practice of decentralization a stable, evenhanded and reliable process. Such proposed guidelines would make it mandatory for each Government entity, be it a Ministry or a corporation to ensure that the selection of the advertising agencies and the selection of print and electronic media are made on the basis of principles of merit, relevance, reasonable costs, fair opportunity for all those eligible to compete for the contracts to have equal preparatory notice and time, with a fair system of evaluation and Such guidelines would include due selection. emphasis on determining the authenticity of circulation or size of audience claimed by media through independent, professional, credible means. One mandatory guideline could be the need to ensure that a minimum reasonable share of advertising expenditure by Government entities is allocated to regional media while ensuring that the definition of what media constitute regional media, both print and electronic, is credible and verifiable.
- (iii) **Comprehensive, multi-media policy :** Whereas the policy to date has dealt only with print media, any new

policy should be multi-media and also cover the new emerging digital media and social media on the Internet. The experience of several countries in this realm will serve as a relevant source of reference for this particular factor.

- (iv) Monitoring without controlling : Whereas throughout Pakistan's history, the Ministry of Information & Broadcasting through the Press Information Department has rigidly controlled all aspects of advertising by the Government, the proposed new policy should enable the Federal Ministry of Information & Broadcasting and the Provincial Departments of Information to conduct accurate monitoring without controlling the process. By itself, the function of monitoring the placement of Government advertising in media would meet a basic need for detached observance and impartial institutional evaluation of the process.
- 31. With regard to TOR No.I : as stated earlier, in the sections dealing with TOR No.G, on the face of it, all Federal and Provincial Government entities claim to adhere to the Principles and Guidelines on which Public Procurement Regulatory Authority Rules are based. Where PPRA Rules directly apply to them, Government entities claim that they abide by the same.

The Central Advertisement Policy practiced by the Press Information Department of the Ministry of Information & Broadcasting is cited as an example of how, in a formal, declared manner, the principles of fairness, transparency and accountability are ensured in the selection of advertising agencies and of print media. However, as per the Public Procurement Regulatory Authority Ordinance, 2002, the scope of scrutiny by PPRA covers only contracts of Rs.50 million and more.

Whereas the predominant practice of virtually all Federal Government and Provincial Government entities is to conduct advertising in segments and phases that do not exceed Rs.50 million at any one stage. For instance, even where the total advertising budget of a Government entity may be more than Rs.50 million per year, the tendency is to select advertising agencies and media for campaigns whose costs in phases normally do not exceed Rs.50 million. Once a particular segment of advertising is completed, costing under Rs.50 million, the process of the next segment is initiated and here too, as the total outlay is normally below Rs.50 million, the PPRA Rules do not become applicable. Further, the tendency is to divide the expenditure on advertising between more than two or three advertising agencies whereby a single contract remains under the level of Rs.50 million per contract.

- 32. While the Commission did meet with senior representatives of three major Government entities which are principal advertisers in print media i.e. PIA, PSO and Benazir Income Support Programme, the Commission could not meet in person with the Chairman or Managing Director of PPRA itself. Nevertheless, a communication by email was addressed to the Managing Director of PPRA on 21st May, 2013 (copy of the said email is at Annexure-17). The reply whereof received from PPRA is also placed at Annexure-17.
- 33. Findings, Observations and Recommendations by the Commission on TOR No.A, F, G, & H in the preceding section of this Report aim to fulfill the last part of TOR No.I i.e. "..... to suggest processes which are fair and transparent and which ensure the greatest value and fairest dissemination of

information". For instance, the proposed restructuring of the Audit Bureau of Circulation (ABC) and the Press Information Department (PID), the introduction of decentralization by enabling each Government entity to determine the selection of media and advertising agencies by its own autonomous process working within guidelines defined by the Government etc.

General Observations by the Commission:

- 1. In addition to interacting with the stakeholders with commercial business relations with the media sector and Government entities, the Commission also as recorded in Part-One of its Report, met with several representatives of groups, organizations and institutions from civil society with an interest in media issues as also with representatives of working journalists, audience-measurement agencies that provide the rating system for electronic media, former and serving chief executives of corporations.
- 2. In most of such cases, the names and organizations were made part of either Part-One or Part-Two of this Report. However, as in the case of some information and views conveyed in confidence to the Commission, on the request of the persons concerned, their comments are not identified by name in the Notes of Meetings which constitutes Section-III of Part-Two of this Report.
- 3. The Commission noted with respect and appreciation the deep interest taken by all the groups and forums from civil society, directly and indirectly concerned with media issues. Their names and their views are part of the Notes of Meetings. The Commission is of the opinion that both the Government entities concerned with the information and media sectors as well as the private media firms in both print and electronic sectors should take careful note of the pertinent observations and recommendations made by representatives of women's groups, social media activists, forums such as the Human Rights Commission of Pakistan, South Asian Free Media Association, Society for Alternative Media, Pakistan Press Foundation, Pakistan Federal Union of Journalists, All Pakistan Newspaper Employees Confederation, Coalition for Ethical Journalism, United Producers Association, Transparency International,

investigative journalists, former chief executives of PTV, Universal Service Fund, and citizens-activists whose comments are listed in the Notes of Meetings.

- 4. Senior representatives of major media houses conveyed to the Commission in person that, notwithstanding a written policy and procedure aiming for merit-based allocation of Government advertising and notwithstanding claims made in speeches and statements made by public office holders of the Government-of-the-day at the Federal and the Provincial level, they have been systematically discriminated against and, de facto, persecuted.
- 5. They ascribe the reason for such hostility against them by the Government to their independent journalism and editorial policy in both print media and broadcast media. They stated that their media was often deprived of their fair share of Government-controlled advertising due to their refusal to toe the line of the Government-of-the-day including particularly the Federal Government in office from 2008-2013. Though, on the face of it, this Government tolerated extreme and harsh criticism of its policies and leaders by the media, in actual practice, in several instances, Government took actions to reduce allocations of Government advertising in disproportion to the circulation and readership enjoyed by the larger media group/s as also prohibiting, in one case, i.e. PPP and the Geo TV group, leaders and members from appearing on a particular channel. Even in the matter of making available copies of newspapers to passengers on aircraft, it was stated that copies of leading newspapers were curtailed for supply to passengers on PIA flights.
- 6. One proprietor of a major media house stated that Government misused its powers on control of advertising and of secret funds to conduct character assassination of individuals such as

himself and of his media group because of the independent policies of his group and candid criticism of Governmental corruption, mis-governance and nepotism. He said that despite the fact that his media group paid the highest levels of tax to the public exchequer, unfounded and exaggerated claims were filed by Government entities against his media group in order to harass him and his associates and to defame names and reputations as alleged tax evaders. He reiterated the media group's intention to abide by its independent polices regardless of the price that has to be paid and called for a policy on Government-controlled advertising which will be genuinely transparent and contain effective checks and balances in place of the existing arrangements and policies which merely appear to be transparent but which, in practice, are easily manipulated and misused.

Supplementary Recommendations by the Commission not included in the Executive Summary:

While the factors necessitating the following four Recommendations have been referred to in Part-One of the Report and in the relevant earlier section of this Report dealing with TOR No.B i.e. reforms required with regard to PEMRA, the Commission places below four specific Recommendations not included in the Executive Summary of Part-Two provided to the Court on 31st May, 2013 and delivered to the Court on 4th June, 2013:

1. That the Recommendations by the Commission regarding TOR No.F which covered aspects of media-related corruption and which sought to ensure impartial and independent media during Elections 2013 as submitted to the Court on 21st March, 2013 deserve attention and action even after 11th May, 2013 so that the imminent conduct of elections for Local Governments expected to be held in all four Provinces in 2013-14 enable media to render an impartial role and to prevent corrupt practices from adversely affecting the pre-election phase.

- 2. That PEMRA should formulate and introduce for debate, and eventual adoption, a new revenue model for electronic media, particularly TV channels so as to reduce the existing severe and exclusive dependence on advertising revenue alone, by making fees from viewers, subscribers, cable operators & distributors, and other sources also a principal source of revenue for TV channels. Reference may be made to similar revenue models that exist in other countries.
- 3. That PEMRA should also examine alternative options for credible TV audience measurement models and systems in order to expand and improve upon the existing excessive dependence on virtually a single ratings system that is urbancentric (and that too also being restricted to only three or four cities). There appears to be a dire need for an audience measurement system that adequately represents the rich diversity across Pakistan in terms of demographics, life-styles, professional groups and classes, linguistic and cultural features etc.
- 4. That the Pakistan Advertisers' Society, Pakistan Broadcasters' Association and PEMRA work together to ensure enforcement of the limits on commercial time specified by PEMRA Rules & Regulations so as to reduce the dominant presence of advertising in the content of electronic media as also to facilitate the formulation of an audience measurement system that is more representative of all citizens and regions of Pakistan as presently decisions by advertisers appear to play an unduly decisive role in determining programme content, presentation formats, modes of discourse etc.

With the foregoing text, Part-Two of the Report by the Commission containing Detailed Findings, Observations and Recommendations on the nine TORs is hereby concluded.

Senator (R) Javed Jabbar Member Justice (R) Nasir Aslam Zahid Chairman

Karachi: 31st May, 2013

Annexures of Part One

C					
Sr. No.	Date of Meeting	Name and designation of participants	Organization		
	<u>Karachi</u> (1 st Meeting)				
1.	07-02-2013	Imran Syed, Chairman, Rubab Haider, Ahmed Jamal Mir, Mansoor Karim Shaikh	Advertising Association of Pakistan (Representing ad agencies)		
2.	08-02-2013	Sarmad Ali, President & Masood Hamid Secretary General.	All Pakistan Newspapers Society (APNS)		
3.	08-02-2013	Nasik Ijaz, Deputy General Manager(legal), Marium Shah (Deputy General Manager (Corporate Communication).	Pakistan State Oil (PSO)		
4.	08-02-2013	Owais Aslam Ali, Chairman.	Pakistan Press International (PPI) News Agency)		
5.	09-02-2013	Aly Mustansar (HBL), Sabieh Ahmed (Johnson and Johnson), Qamar Abbas.	Pakistan Advertisers Society (PAS)— HBL. Johnson and Johnson.		
6.	09-02-2013	Muhammad Aslam Kazi (KTN), Ghulam Nabi Morai (Mehran TV),and Saleem Gul (Awaz TV).	Representatives of Sindhi language television channels.—KTN, Mehran, Awaz TV.		
	<u>Islamabad</u> (1 st Round)				
7.	12-02-2013	Hamid Mir, Geo TV and Mr. Absar Alam, Aaj TV	Main Petitioners in CP 105/2012.		
9.	12-02-2013	Mazhar Arif Alternative Media	Representative of New Media		
10.	12-02-2013	Tahira Abdullah, Nasreen Azhar; Myra Imran (The News) Humaira Sharif (APP), Rep of UKS, and Aurat Foundation.	Civil Society Representatives.		
12.	13-02-2013	Yusuf Baig Mirza, Managing Director	Pakistan Television Corporation		
13.	13-02-2013	Murtaza Solangi, Director General; Muhammad Idrees Director Adm),Liaquat Ali, Dir (finance).	Pakistan Broadcasting Corporation		
14.	13-02-2013	Khalid Sarwar, Managing Director, Abdul Wahid (Exec. Director); M. Moinuddin (Accounts Manager); Akram Malik (Chief Reporter); Farooq Ahmed (Director Features) and M. Ghawas, Dir. IT).	Associated Press Of Pakistan		
15.	13-02-2013	Ishaque Chaudhry,Chairman (Islamabad Chapter)	All Pakistan Newspaper Employees Confederation.		
16.	14-02-2013	Rashid Ch.(Chairman); Dr. A. Jabbar (Exec. Member);Nasir Ahmed (Legal Dept.);Suhail Ahmed (Secretary to Board).	Pakistan Electronic Media Regulatory		
17.	14-02-2013	Raja Muhammad Shafqat Abbasi, Chairman; Surraya Jamal, Director; and Nasir Asghar Gill (Amin)	Press Council of Pakistan		
18.	14-02-2013	Arshad Khan, former MD	Former MD PTV and CEO, Ufone.		
19.	15-02-2013	Agha Nadeem, Secretary Information and Broadcasting; Muhammad Azam, PIO, Nasir Jamal, DGIP, Zahoor Barlas, Director ABC.	Ministry of Information and Broadcasting		

Names, titles, dates, locations of individuals and organizations that participated in meetings with the Commission.

	Karachi		
	(2nd Round)		
20.	21-02-2013	Kashif Jafri, CEO	9 to 5 (Media Monitoring and Research)
21.	21-02-2013	Afia Salam(Consultant-BOL BHI); Jehan Ara(President PASHA) & javed Fareed (Technology Consultant).	Civil Society Representatives— PASHA; Technology Consultant
22.	21-02-2013	Khawaja Rashid, Asif Raza Mir, Syed Mubashir Imam (Channel Tek), Shahbaz Siddiqui, Rashid Sami.	United Producers Association
23.	22-02-2013	Khalid Arain(Chairman) and Members of Cable Television Operators Association of Pakistan Imran Abdi;Ghulam Mustafa;Saeed Shah;Muhammad Saeed(Pesh);Hafiz Ali Asad(KPK; Sabir Lakhani(Sindh); M. Faridullah(khi); Shaikh Aziz, Zubair Khattak(KP);Babrak Khan (Balochistan); Ch. Tahir (Punjab); Sajid Tirmizi.	Cable Television Operators Association of Pakistan.
	Lahore (1 st Meeting)		
24.	26-02-2013	Abdullah Khan Sumbal (Secretary) and S. Tahir Raza Hamdani (Addl. Secy).	Information and Culture Department, Government of the Punjab.
25	26-2-2013	Naeem Tahir and Shahid Mahmood Nadeem	Media Experts
26	26-02-2013	Jameel Athar Qazi (Chairman)	Council Of Pakistan Newspapers Editors (CPNE)
27	26.2.2013	Mr. I A Rehman and Mr. Hussain Naqi,	Human Rights Commission of Pakistan
28.	27.02.2013	Asad Kharal, Chief Reporter	Petitoner and Chief Reporter Express Tribune, Lahore
29.	27-02-2013	Salman Danish, Media Logic	Media Logic, Monitoring Agency.
30.	27-02-2013	Shafqat Mahmood, Secretary Information, PTI and colleague.	Pakistan Tehreek e Insaaf
31.	27-02-2013	Imtiaz Alam (SAFMA).	South Asian Federation of Media Associations (Pakistan)
	Islamabad		
32.	28-02-2013	Mushahidullah Khan, PML (N)	Pakistan Muslim League (N).
33.	28-02-2013	Nadeem Akbar (VP),S.A.Masud;Hissam Niazi;Owais Hameed; Suhail Kissat;and Safeer H. Shah.	Advertising Association of Pakistan, Islamabad Chapter.
34.	01-03-2013	Ghulam Akbar, CEO, Midas Int.	Midas International Ltd.
35.	02-03-2013	Afzal Khan Additional Secretary, ECP	Election Commission of Pakistan.
36.	02-03-2013	Advocate Tariq Hassan—Petitioner (GEO TV)	Petitioner
37.	02-03-2013	M. Ziauddin,	Convenor Coalitition for Ethical Journalism, and Editor, Express Tribune,Islamabad.
38.	02-03-2013	Riaz Ahmed,	Ex-Director Associated Press of Pakistan

	<u>Karachi</u> (3rd Round)		
39.	05-03-2013	Noor Muhammad Leghari(Secretary); Dr. Zulquar Shallwani (Director General), Anita Baloch, (Director Advertisements)	Information and Archives Department, Government of Sindh.
40.	05-03-2013	AVM Masood Qasim, (DMD);Shoaib Ahmed (GM Brand Management);Mashkoor Tajwar(GM Public Affairs);Asim Rauf,(Manager, Legal);and Hasnain Malik (Senior Officer Brands).	Pakistan International Airlines
41.	07-03-2013	Mir Ibrahim Rehman; M. Sulaiman, CEO Geo TV;Advocate Kabir(legal Adviser); Advocate Nadeem Ahmed (Legal Adviser); Khurram Qadir, GM Corporate Affairs (GEO);	GEO Television
42.	07-03-2013	MQM delegation – Haider Abbas Rizvi, MN A and Qamar Mansoor, former MPA Sindh.	Muttahida Quomi Movement
43.	07-03-2013	Pakistan Broadcasters Association: Muhammad Aslam Kazi, President; Mir Ibrahim Rehman (GEO), Tahir Khan (TV 1), Sultan Lakhani(ExpressTV); Duraid Qureshi(HUM TV); Shakeel Masud (Dawn TV). and Ali Butt, Executive Director, PBA.	Pakistan Broadcasters Association
44.	08-03-2013	Mr. Raihan Merchant, CEO, Merchant Holdings, and Farhan Qureshi, Star-Communications.	Merchant Holdings (Media Buying House)
45.	09-03-2013	Mr. Qamar Zaman Kaira, Federal Minister for Information and Broadcasting.	Information Secretary, Pakistan People's Party
XX	XX	Peshawar	
46	11-03-2013	Azmat Orakzai,(Secretary) Faridullah (Addl. Secretary) Shuabuddin,(Director	Information Department, Govt of KP
47	11-0302013	Rahimullah Yusufzai	Bureau Chief, The News (Peshawar).
48	11.03-2013	Arshad Aziz Malik(President) Sharif Farooq (Senior Journalist) and Tahir Farooq.	Khyber Union of Journalists
49	11-03-2013	Dr Shah Jehan (head, Deptt. Of Mass Communication); Ms Shabina Azaz (Aurat Foundation); Idrees Khalid(Civil Rights Activist), and M. Ijaz Durrani, (SPO)	Representatives of Civil Society, Educationists; Aurat Foundation; Civil Rights, Strengthening Participatory Organisation,
XXX	XX XX	ISLAMABAD	
50	12-03-2013	Asif Salahuddin (CEO)	Adgroup Advertising Agerncy
51	12-03-2013	Anwer Sheikh (Joint Secretary) Syed Iftikhar, Director (IT); Muhammad Ayub, Manager Legal; Naveed Ahmed, Public Relations Officer.	Ministry of Information Technology
52	12-03-2013	Aftab Zahoor (President); Yawar Abbas, (Treasurer; and Shahid Ali Butt Executive Member.	Associated Press of Pakistan Employees Union
53	12-03-2013	Inam Akbar, Raja Muqsit Nawaz, (Advocate); Shakeel Ahmed, (Tax Consultant); Zakir Hussain, Assistant to CEO; Shahid Hameed, Media Incharge.	Midas Pvt Ltd
54	12-03-2013	Mir Shakeel ur Rehman, Head of the Group, Sr. Advocate Akram Sheikh and Advocate Tariq Hassan	Jang/GEO Group of Companies.
55	13-03-2013	Sher Khan, former Federal Secretary and Secretary BISP; Shej i Kazmi, Chief Communications Officer; Shoaib Khan, Director Media; Ch. Naveed Akbar, Director Business Facilitation	Benazir Income Support Programme

56	13.03.2013	Riaz Asher Siddiqui,	Ex-CEO, Universal Service Fund
57	13-03-2013	Brig Musaddiq Abbasi, Director General; Brig ® Shaukat Qadir, Consultant.	National Accountability Bureau
58	13-03-2013	Kashmala Tariq, MNA PML (Q) Like-Minded	Pakistan Muslim League (like Minded Group)
XXX	XXX	KARACHI	
59	15.03-2013	Adil Gillani (Past Chairman); Suhail Muzaffar (Chairman	Transparency International (Pakistan)
60	15-03-2013	Amin Yousaf Secretary General)	Pakistan Federal Union of Journalists
XXX	XXXXX	QUETTA	
61	18-03-2013	Sarwar Javed (Secretary), Mahfooz Ali, (DG).	Information Department, Balochistan.
62	18-03-2013	Aminullah Meshwani (President);Javaid Tarakai,(VP, QUJ); Tahir Khan,(Advocate and HRCP),Usman Kakar (Provincial President (Pakhtun Milli Awami Party);Nasrullah Zarar (Prov. SG, PKMAP);Ghulam Nabi (BNP-Mangel);Haji A. Manan (Prov. Info. Secy National Party)—Dr A. Malik Group);Raja Wakil Info. Secy, Hazara Democratic Party);Lt.Gen (R) Abdul Qadir, MNA, (PML (N); Ayub Baloch, Ex- Secretary Information, Govt. of Balochistan.	Quetta Union of Joumalists(QUJ);Political Parties—Pahktum Milli Awami Party(PMAP); Balochistan National Party(Mengal); Hazara Demoratic Party;National Party;PML (N) and HRCP,.
63	18-03-2013	Zeenat Yousafzai,(Educationist),M. Nasrullah,(Centre for Peace and Development);Malik Zahoor A. Sehwani(President, HC Bar Association);Nadir Ali Chalgari (Former President Bar Association);Khursheed A. Khoso (Advocate HC);Ms Sabina Islam (Chairperson Balochistan Women Bar Association).	Representatives of Civil Society; Educationist & Bar Associations

ANNEXURE "C"

CODES OF ETHICS/CONDUCT

ALL PAKISTAN NEWSPAPERS SOCIETY APNS

The Pakistan Newspapers Society, a precursor to the APNS, was established in 1950, primarily due to the efforts of the late Messrs Hameed Nizami and Hamid Mahmood. In the year 1953, it was decided to form the All Pakistan Newspapers Society, merging all the existing groups of publishers. The organization expanded rapidly with the inclusion of new members from all over the country and was soon able to call itself the ALL PAKISTAN NEWSPAPERS SOCIETY. The significance of this Organization is duly reflected in the fact that it provides a bridge between the newspapers and the advertising agencies.

Advertisement rules and code of ethics APNS

1. That Society, through its members, undertakes to use all possible measures to develop the qualitative and quantitative factors of the publications so as to render the best possible service to the public and to advertisers.

2. All advertising agencies shall take all reasonable precautions to ensure that all advertising released by them is legal, decent, clean, honest and truthful and that such advertising is in respect of goods or services prepared with a sense of responsibility to consumers and to society.

3. The advertising agencies/ advertisers, before releasing an advertisement for publication, must have documentary evidence to prove all claims, whether direct or implied, that are capable of objective substantiation and it will be required to be provided to the APNS on demand.

4 The advertisers should assure that no advertisement should mislead by inaccuracy, ambiguity, exaggeration, omission or otherwise. No advertisement should so closely resemble any other product/advertisement that it misleads or causes confusion.

5. No advertisement should make unfair use of the goodwill attached to the trademark, name, brand or the advertising campaign of any other advertisers.

6. No advertisement should contain anything that is likely to cause serious or widespread offence or fear or distress among its readers without good reason.

7. The advertiser should not unfairly attack or discredit other businesses or products.

8. No advertisement will be accepted which in any way advertise prescription - only medicines in the lay press unless authorized by the Ministry of Health. However, such advertisements may be published by medical and allied publications meant for medical practitioners.

9. Any advertisement intending to influence public opinion in favour of or against any political party/ group or electoral candidate must not contain anything that breaks the law or incites any one to break it. Personal attacks on the candidates should also be avoided and only the policies or manifestos should be referred to.

10. No advertisement will be accepted containing claims or illustrations which are distorted or exaggerated in such a manner as to convey false impressions or containing "knocking copies" of direct nature.

11. All monies due from the Advertising Agency to the members of the Society shall be payable at the place of publication of the

member newspaper and only the appropriate court at the place of publication or any of its notified establishments for this purpose shall have the jurisdiction in the case of any dispute or legal proceedings. In the event of any dispute or difference between the members of the Society and the accredited advertising agency and the advertisers, arising out of or in connection with the contract or order of insertion or a bill in connection therewith, or otherwise, the same would be referred to an arbitrator who may be nominated by APNS if both parties agree. Otherwise, disputes would be settled in accordance with the Arbitration Act.

12. Member publications shall not favour direct advertisers by giving them better facilities such as lower rates, longer credit periods, preferential positions, commissions, discounts and supplying artwork at nominal rates.

13. The members of the Society shall not give commission or any rebate to any direct advertiser provided that a non-accredited advertising agency or a canvasser may be allowed commission not exceeding 6.5% on advance cash payment.

14. In case space contacted for is not fully utilized, space consumed shall be paid for at the rate applicable to such space which was in force at the date of contract as per Rate Card of the publication.

15. The members of the Society shall be free to approach clients of advertising agencies for the purpose of procuring advertisement business. However all such business will be routed through the appointed agency and the agency will be entitled to 15% Agency Commission, if client listed under the agency, as per the Rules of the Society.

16. The members of the Society may in their discretion allow concession on advertisements published in their publications by other members of the Society.

17. The members of the Society may in their discretion allow concession on advertisements relating to charitable and Public Service organizations.

18. The advertiser shall pay dues to the advertising agency, not later than 45 days from, the date of issue of Agency Invoices. Where an advertiser fails to pay and in consequence the agency is unable to pay publications, APNS upon being authentically informed by the Agency and being so satisfied will advise its member publications to suspend the advertisements of the concerned advertiser, until payment is realized. This is without prejudice to the agency's clear liability to pay its dues even if its clients have not paid.

Council of Pakistan Newspaper Editors (CPNE)

The Council of Pakistan Newspaper Editors (CPNE) has worked since its foundation in 1957 as the combined body of Newspaper Editors in Pakistan to campaign for defense of press freedom and the right of access to information in the service of democratic practice and strengthening of democratic institutions in the country.

CPNE Code of Ethics

An Ethical Code of Practice is formulated as under for the press for the purpose of its functioning in accordance with the canons of decency, principles of professional conduct and precepts of freedom and responsibility to serve the public interest by ensuring an unobstructed flow of news and views to the people envisaging that honesty, accuracy, objectivity and fairness shall be the guidelines for the press while serving the public interest in any form of publication such as news items, articles, editorials, features, cartoons, illustrations, photographs and advertisements: etc-

1. The press shall strive to uphold standards of morality and must avoid plagiarism and publication of slanderous and libelous material.

- 2. The Press shall strive to publish and disclose all essential and relevant facts and ensure that the information it disseminates is fair and accurate.
- 3. The Press shall avoid biased reporting or publication of unverified material, and avoid the expression of comments and conjecture as established fact. Generalization based on the behavior of an individual or small number of individuals will be termed unethical.
- 4. The Press shall respect the privacy of individuals and shall do nothing which tantamount to an intrusion into private, family life and home.
- 5. Rumors and unconfirmed reports shall be avoided and if at all published shall be identified as such.
- 6. The information, including pictures, disseminated shall be true and accurate.
- 7. The Press shall avoid originating, printing, publishing and disseminating any material, which encourages or incites discrimination or hatred on grounds of race, region, caste, sect, nationality, ethnicity, gender, disability, illness or age of an individual or group.
- 8. The Press shall not lend itself to the projection of crime as heroic and the criminals as heroes.
- 9. The Press shall avoid printing, publishing or disseminating any material, which may bring into contempt. Pakistan or its people or tend to undermine its sovereignty or integrity as an independent country.
- 10. The Press shall not publish or disseminate any material or

expression which is violative of Article 19 of the Constitution of Islamic Republic of Pakistan.

- 11. The Press shall rectify promptly any harmful inaccuracies, ensure that corrections and apologies receive due prominence and afford the right of reply to persons criticized or commented upon when the issue is of sufficient importance.
- 12. While reporting on medical issues, care must be taken to avoid sensationalism, which could arouse baseless fears or false hopes in the readers. Early research findings should not be presented as though they were conclusive or almost conclusive.
- 13. Sensationalism of violence and brutalities shall be avoided. All reporting shall be accurate, particularly when court proceedings are covered and an accused person must not be presented as guilty before judgments has been pronounced.
- 14. In case of sexual offences heinous crime against children, juveniles and women, names and identifying photographs shall not be published.
- 15. Confidentiality agreed upon at briefings and background interviews must be observed.
- 16. The Press while publishing findings of opinion polls and surveys shall indicate the number of people, geographical area on which the polls and surveys were conducted and the identity of poll sponsor.
- 17. Any kind of privilege or inducement, financial or otherwise, which is likely to create conflict of interest and any inducement, offered to influence the performance of professional duties and is not compatible with the concept of reputable, independent and responsible press must be avoided.

PAKISTAN FEDERAL UNION OF JOURNALISTS (PFUJ)

Pakistan Federal Union of Journalists (PFUJ) is arguably South Asia's first association representing the journalists of an entire country. The battles it waged for press freedom and for a democratic dispensation in the country will always remain etched in the collective memory of Pakistanis.

To this day, PFUJ remains committed to the ideals for which it was established in 1950. Set up primarily to work towards a better working environment for Pakistani journalists, it didn't remain isolated from the struggles and campaigns launched by the civil society.

PFUJ's constitution was adopted at the Pakistan Working Journalists Convention, which was held in Karachi in April of 1950. Delegates from home as well as from abroad took part in the event which paved the ground for the establishment of PFUJ.

Code of Conduct of PFUJ

Like other trade unions, The Pakistan Federal Union of Journalists desires and encourages its members to maintain good quality of workmanship and high standard of conduct.

A member of the Union has two claims on his loyalty, one by his Union and one by his employer. These need not clash so long as the employer complies with the agreed Union conditions and makes no demand for forms of service incompatible with the honor of the profession or with the principles of-trade unionism.

1. A member should do nothing that would bring discredit on himself, his Union, his newspaper, or his profession. He should study the rules of his Union, and should not, by commission or omission, act against the interests of the Union.

- 2. Whether publication or suppression, the acceptance of a bribe by a journalist is one of the gravest professional offences.
- 3. Every journalist should treat subordinates as considerately as he would desire to be treated by his superiors.
- 4. Freedom in the honest collection and publication of news facts and the rights of fair comment and criticism, are principles, which every journalist should defend.
- 5. Unless the employer consents to a variation, a member who wishes to terminate his employment must give notice according to agreement.
- 6. No member should seek promotion or seek to obtain the position of another journalist by unfair methods. A member should not directly or indirectly, attempt to obtain for himself or any one else, any commission, regular or occasional held by a freelance member of the Union.
- 7. It is unprofessional conduct to exploit the labor of another journalist by plagiarism, or by using his copy for linage purposes without permission.
- 8. Staff men who do linage work should be prepared to give up such work to conform with any pooling scheme approved by the FEC or any Union plan to provide a freelance member with a means of earning a living.
- 9. A member holding a staff appointment shall serve first the paper that employees him. In his own time a member is free to engage in other creative work, but he should not undertake any extra work in his rest time or holidays, if by so doing he is depriving an out of work member of a chance to obtain employment. Any misuse of rest days won by the Union on the

sound argument that periods of recuperation are needed after strenuous hours of labor is damaging to trade unions aims for a shorter working week.

- 10. While a spirit of willingness to help other members should be encouraged at all times, members are under a special obligation of honor to help an unemployed member to obtain work.
- 11. A journalist should fully realize his personal responsibility for every thing he sends to his paper or agency. He should keep Union and professional secrets and respect all necessary confidences regarding sources and information and private documents. He should not falsity information or documents, or distort of misrepresent facts.
- 12. In obtaining news or pictures, reporters and Press photographers should do nothing that will cause pain or humiliation to innocent, bereaved, or otherwise distressed persons. News pictures end documents should be acquired by honest methods only.
- 13. Every journalist should keep in mind the danger in the laws of libel, contempt of court and copyright. In reports of law court preceding it is necessary to observe and practice the rule of fair play to parties.

PAKISTAN TELEVISION CORPORATION (PTV)

Responsibility

Pakistan Television Corporation is the biggest media organization of Pakistan. It is an autonomous public sector organization.

The main responsibility of PTV is to provide public service broadcasting not only within Pakistan but also outside Pakistan. It

makes programmes for all its viewers in drama, documentaries current affairs, entertainment and sport. Its programmes are produced in Urdu as well as in all regional languages i.e Sindhi, Punjabi, Pashto and Balochi.

While producing its programmes it pays due attention to the interest and aspirations of all strata of society and tries to reflect those effectively in its programmes.

RADIO PAKISTAN - PAKISTAN BROADCASTING CORPORATION (PCB)

According to PBC Act 1973, the functions of the corporation are as follows

10. (1) The functions of the corporation shall be

(a) to provide broadcasting services for general reception in all parts of Pakistan and the territorial waters thereof and on board ships and aircrafts (such services being hereafter referred to as Home Services) and in other countries and places (such services being hereafter referred to as External Services) for the purposes of disseminating information, education and entertainment through programmes which maintain a proper balance in their subject-matter and a high general standard of quality and morality;

(b) Broadcasting such programmes as may promote Islamic ideology, national unity and principles of democracy, freedom equality, tolerance and social justice as enunciated by Islam, discourage parochial, racial, tribal sectarian, linguistic and provincial prejudices and reflect the urges and aspirations of the people of Pakistan;

© to broadcast in the Home Services such special programmes as the Federal Government may, from time to time, direct;

(d) to broadcast programmes in the External Services to such countries and in such languages and at such times as the Federal Government may, from time to time, director;

(e) to being to public awareness the whole range of significant activity and to present news or events in as factual, accurate and impartial a manner as possible;

(f) to carry out instructions of the Federal Government with regard to general pattern or policies in respect of programmes, announcements and news to be put out on the air from time to time;

(g) to hold the existing and to construct or acquire and establish or install additional stations and apparatus;

(h) to hold the existing and to construct or acquire additional equipment and apparatus for telephony in Pakistan for purpose of broadcasting;

(i) to compile, prepare, print, publish, issue, circulate and distribute, with or without charge, such papers, magazines, periodicals, books, circulars and other such matter as may be conducive to any of the functions of the Corporation; and

(j) to collect news and information in any part of the world in any manner that may be deemed fit.

(2) In the discharge of its functions the Corporation shall be guided on questions of policy by the instruction, if any, given to it from time to time by the Federal Government which shall be the sole judge as to whether a question is a question of policy.

PAKISTAN ELECTRONIC MEDIA REGULATORY AUTHORITY (PEMRA)

Code of conduct for media broadcasters or cable TV operators

Programmes: -

(1) No programme shall be aired which-

(a) passes derogatory remarks about any religion or sect or community or uses visuals or words contemptuous of religious sects and ethnic groups or which promotes communal and sectarian attitudes or disharmony;

(b) contains anything pornographic, obscene or indecent or is likely to deprave, corrupt or injure the public morality;

(c) contains an abusive comment that, when taken in context, tends to or is likely to expose an individual or a group or class of individuals to hatred or contempt on the basis of race or caste, national, ethnic or linguistic origin, colour or religion or sect, sex, sexual orientation, age or mental or physical disability;

(d) contains anything defamatory or knowingly false;

(e) is likely to encourage and incite violence or contains anything against maintenance of law and order or which promotes anti-national or anti-state attitudes;

(f) contains anything amounting to contempt of court;

(g) contains aspersions against the Judiciary and integrity of the Armed Forces of Pakistan;

(h) maligns or slanders any individual in person or certain groups,

segments of social, public and moral life of the country;

(I) is against basic cultural values, morality and good manners;

(j) brings into contempt Pakistan or its people or tends to undermine its integrity or solidarity as an independent and sovereign country;

(k) promotes, aids or abets any offence which is cognizable under the applicable laws;

(1) denigrates men or women through the depiction in any manner of the figure, in such a way as to have the effect of being indecent or derogatory;

(m) denigrates children;

(n) anything which tends to glorify crime or criminals;

(o) contains material which may be detrimental to relations of Pakistan with other countries;

or

(p) contains material which is against ideology of Pakistan or Islamic values.

(2) Particular care should be taken to ensure that programmes meant for children do not contain objectionable language or are disrespectful to their parents or elders.

(3) Programmes must not be directed against the sanctity of home, family and marital harmony.

(4) While reporting the proceedings of the Parliament or the

Provincial Assemblies, such portion of the proceedings as the Chairman or the Speaker may have ordered to be expunged, shall not be broadcast or distributed and every effort shall be made to release a fair account of the proceedings of the Parliament or the Provincial Assemblies.

Advertisements:-

(1) Advertisements aired or distributed by a broadcast or cable TV station shall be designed in such a manner that it conforms to the laws of the country and is not offensive to morality, decency and religious sects of the people of Pakistan.

(2) No advertisement shall be permitted which-

(a) promotes or supports sedition, anarchy or violence in country;

(b) is against any provisions of the Constitution of Pakistan or any other law for the time being in force;

(c) tends to incite people to crime, cause disorder or violence or breach of law or glorifies violence or obscenity in any way;

(d) glorifies adultery, lustful passions or alcoholic drinks or the non-Islamic values;

(e) distorts historical facts, traditions of Pakistan or the person or personality of a national leader or a state dignitary;

(f) fans racial, sectarian, parochial, regional or class hatred;

(g) promotes social inequality, militates against concepts of human dignity and dignity of labour.

(h) is directed against sanctity or home, family and marriage;

(i) is wholly or mainly of a religious or political nature;

(j) contains references that are likely to lead the public to infer that the product advertised or any of its ingredients has some special property or quality which is incapable of being established;

(k) contains indecent, vulgar, or offensive themes or treatment; or

(1) contains material which is repugnant to ideology of Pakistan or Islamic values.

(3) The goods or services advertised shall not suffer from any defects which are harmful to human health. Misleading claims about the goods shall not be made.

(4) No advertisement which is likely to be seen by children in large numbers should urge children directly to purchase goods of a particular brand or ask their parents to do so.

(5) All advertisements must be clearly distinguishable as such and be separate from the programmes and should not in any manner take the form of news or documentary.

PAKISTAN BROADCASTERS ASSOCIATION PBA

DRAFT OF SELF REGULATORY CODE OF CONDUCT

Scope of the voluntary code

This Code of Conduct (hereinafter referred as the Code") formulated voluntarily by Pakistan Broadcasters Association (hereinafter refereed as "the PBA") and all electronic media broadcasters who are members of PBA is aimed at self- regulation of electronic media. All the licensees/ permission holders in their individual capacity and PBA, to

the extent of its members, hereby undertake that the Code shall be strictly adhered to in letter and spirit. PBA shall endeavor in every way and manner to ensure strict compliance of the Code by its members.

Preamble

WHEREAS: The Pakistan Broadcaster's Association ("the PBA"), while recognizing the Article 19 of the Constitution of the Islamic Republic of Pakistan which provides that "Every citizen shall have the right to freedom of speech and expression, and there shall be freedom of the press, subject to any reasonable restrictions imposed by law...." acknowledges that with the rights of the media come responsibilities and therefore the PBA hereby enunciates this Code of Conduct ("the PBACode") to be applicable with immediate effect.

a) Freedom of expression and the right of the public to information are fundamental to the establishment, nurturing and sustenance of a democratic society and are guaranteed by the Constitution;

b) Since the public has also a right to know the truth, it is the duty of the media to provide the truth to the public without fear of harassment or coercion;

c) The State is also enjoined by the Constitution to protect and safeguard the rights and freedoms of the citizens including those associated with the media;

d) We are conscious of our duties to the public at large and the nation and are aware that the right of the public to know and be informed must be balanced against the need to protect the privacy of individuals and the security of the state in a manner that secures the larger public interest;

e) Every broadcaster understands the significance of this Code:

f) The interest of the general public shall be the determining factor at all times in interpreting and enforcing the provisions of the PBACode.

NOW THEREFORE THE PBA AND THE BRAODCASTERS DO HEREBY VOLUNTARILY ADOPT THIS CODE OF CONDUCT:

3. Code of Conduct for Programmes

3.1 We, the media broadcasters being the licensees/permission holders of PEMRA do hereby voluntarily undertake that no content shall be aired which contains:

a) a call to arms against the Federation of Pakistan or action to damage the integrity, security and defense of Pakistan. However, programme content which covers, deals with or probes controversial questions pertaining to sensitive issues of integrity, security and defense of Pakistan within the confines of law and justified by the context shall not be restricted

b) any abusive treatment of the religious views and beliefs of those belonging to a particular religion or sect or justifies or promotes sectarian hatred and violence

c) Anything pornographic and/or obscene as defined by laws in force.

d) Abusive comment that purposely and recklessly intends to incite hatred and contempt against any individual or group of persons, on the basis of race, caste, nationality, ethnic or linguistic origin, color, religion, sect, sex, sexual orientation, age, mental or physical disability is not promoted in any programme

e) in violation of copyrights or other related property rights

f) anything against prevailing and evolving socio cultural norms; demographics changes news norms, rural and urban.

g) Broadcasters must ensure that material likely to incite the commission of terror, crime or to lead to serious public disorder must be avoided. Broadcasters must use their best endeavors so as not to broadcast material (that could endanger lives or) prejudice the success of attempts to deal with an on-going hijack, kidnapping or terrorist incident. (Terror coverage clauses to be inserted here once approved.)

h) Induce or justify violence.

i) Known to be false or there exist sufficient reasons to believe that the same may be false beyond a reasonable doubt and with malice

j) amounts to contempt of court as defined in Article 204 of the Constitution of Islamic Republic of Pakistan and any other contempt law in force

k) The difference between opinion and fact must not be blurred and where appropriate, the distinction between the same should be duly identified to the audience. Where programme content is based on an unconfirmed report or rumor the same should be clearly identified as such to the audience.

1) Where individuals or groups are singled out for criticism, the programme should provide reasonable opportunity for a balancing response.

m) Amounting to black mail as defined in Pakistan Penal Code or incrimination of any person, including advantage from such person.
 n) anything defamatory as defined in Defamation Law or relating to an individual's private life unless warranted by public interest, or his or her prior permission has been obtained

3.2) Without prejudice to any other restrictions in this regard, while reporting the proceedings of the Parliament or the Provincial Assemblies, such portion of the proceedings as the Chairman or the Speaker may have ordered to be expunged, shall not be broadcast or distributed and every effort shall be made to release a fair account of the proceedings.

3.3) The veracity and authenticity of news and reports broadcast shall be ensured as far as editorially possible.

3.4) Editorial caution will be used while covering tragic incidents such as bomb blasts, war, natural disasters so that gory images of bloodshed, corpses or human organs, live or recorded are avoided as far reasonably possible. PG should be given.

3.5) Subject to the Code a programme relating to any controversial issues, shall strive to present the point of view of all the stakeholders with equanimity in an objective manner.

4) Broadcasters' Obligations and Responsibilities:

4.1 The Broadcast media operators including anchor persons, producers, editors, and directors undertake responsibility to ensure compliance of the code

4.2) All efforts must be made by broadcasters and talk show moderators to correct error of fact at the earliest opportunity and to ensure that corrections brought expressly to their notice are broadcast to public.

4.3) Broadcasters and talk show moderators (hosts/ anchors) will ensure that Content of news and current affairs programmes is always presented in as balanced a manner as possible. It must be ensured that material received from foreign countries are not against the public policy. 4.4) Broadcasters and talk show moderators (hosts/anchors) will ensure that Content of news and current affairs programmes are presented with sensitivity in the case of material likely to cause some distress to a substantial number of viewers such as images or interview with victims of traumatic incidents. Should only be used when deemed editorially essential.

4.5) While addressing or interviewing any person, programme presenters, anchor person and compares shall extend proper courtesy and respect to the concerned person in a manner which is fully compatible with our civic values and traditions.

Live Up-linking

If at any point live coverage is likely to air content which violates any law or this Code, the broadcasters, licenses / permission holder or any person operating under it, shall immediately take preemptive measures to prohibit the airing of such content. In this regard all the broadcasters, licensees or permission holders shall incorporate such technological measure within their system which shall provide sufficient time delay in broadcast, to ensure that the content complies with this Code and can be filtered.

Except by PEMRA, no written directive will be enforceable on cable operators, issued by any persons, authority, institutions or political parties etc.

As far as editorially possible, guide lines issued by election commission of Pakistan shall be followed at the time of election.

Review and Enforcement:

5) The PBA may review the terms and conditions of the Code in order to incorporate any amendments/ changes incumbent on account of practical issues faced.

6) Besides this Code of Conduct there were certain other issues which PBA and PEMRA agreed to, for legislation as reflected in Annexure-A of this Code.

7) This Code of Conduct will come into force with immediate effect as agreed by PEMRA and PBA members and will apply to all Electronic Media, subject to compliance of issues mentioned in footnote no 1 to 5.

NB

1. Before enforcing the voluntarily Code of Conduct, necessary amendments should be made in the Freedom of Information Ordinance 2002 and Defamation Ordinance 2002.

2. Immediately upon promulgation of PBA Voluntarily Code of Conduct, all provisions of PEMRA laws those are found contradictory and in conflict with the PBA Code of

3. Conduct shall be omitted by way of necessary amendments in the PEMRA Ordinance 2002 and the Rules and Regulations framed their under.

4. The code will not be applied stringently on entertainment programmes, satire, drama, films and such genres.

5. Any clause in contravention to Article 19 of Constitution of Pakistan will not be applicable.

6. This code of conduct shall be applicable to all state owned/managed/Joint ventures of Electronic Media as well

Acceptance

I / We, being the owners/ operators/ authorized person / representative of M/s ------ (a licenses of PEMRA) do hereby certify that I / we have Read, understood and accepted all the provisions of the above Code of Conduct which consists of six pages and hereby undertake to abide by this Code.

()
M/s	
Palace:	
Date:	

PRESS COUNCIL OF PAKISTAN (PCP)

The Press Council of Pakistan is an autonomous and independent apex body which issue and monitor good standards of media practice. The main ambits of the Council are:

1. To receive complaints about the violation of Ethical Code of Practice relating to newspapers, news agencies, editors and journalists.

2. To revise, update, enforce and implement the Ethical Code of Practice for the newspapers, news agencies, editors, journalists and publishers as laid down in the Schedule to this Ordinance.

Ethical Code of Practice of PCP

An Ethical Code of Practice is formulated as under for the press for the purpose of its functioning in accordance with the canons of decency, principles of professional conduct and precepts of freedom and responsibility to serve the public interest by ensuring an unobstructed flow of news and views to the people envisaging that honesty, accuracy, objectivity and fairness shall be the guidelines for the press while serving the public interest in any form of publication such as news items, articles, editorials, features, cartoons, illustrations, photographs and advertisements; etc –

(1). The press shall strive to uphold standards of morality and must avoid plagiarism and publication of slanderous a libelous material.

(2). The Press shall strive to publish and disclose all essential and relevant facts and ensure that information it disseminates is fair and accurate.

(3). The press shall avoid biased reporting or publication of unverified material, and avoid the expression of comments and conjecture as established fact. Generalization based on the behaviour of an individual or a small number of individuals will be termed unethical.

(4). The Press shall respect the privacy of individuals and shall do nothing which tantamounts to an intrusion into private, family life and home.

(5). Rumours and unconfirmed reports shall be avoided and if at all published shall be identified as such.

(6). The information, including picture, disseminated shall be true and accurate.

(7). The Press shall avoid originating, printing, publishing and disseminating any material, which encourages or incites discrimination or hatred on grounds of race, religion, caste, sect, nationality, ethnicity, gender, disability, illness, or age, of an individual or group.

(8). The press shall not lend itself to the projection of crime as heroic and the criminals as heroes.

(9). The press shall avoid printing, publishing or disseminating any material, which may bring into contempt Pakistan or its people or tends to undermine its sovereignty or integrity as an independent country.

(10). The press shall not publish or disseminate any material or expression, which is violative of article 19 of the Constitution of the Islamic Republic of Pakistan.

(11). The press shall rectify promptly any harmful inaccuracies, ensure that corrections and apologies receive due prominence and afford the right of reply to persons criticized or commented upon when the issue is of sufficient importance.

(12). While reporting on medical issues, care must be taken to avoid sensationalism, which could arouse baseless fears or false hopes in the readers. Early research finding should not be presented as though they were conclusive or almost conclusive.

(13). Sensationalism of violence and brutalities shall be avoided. All reporting shall be accurate, particularly when court proceedings are covered and an accused person must not be presented as guilty before judgment has been pronounced.

(14). In the case of sexual offences and heinous crime against children, juveniles and women, names and identifying photographs shall not be published.

(15). Confidentiality agreed upon at briefings and background interviews must be observed.

(16). The press while publishing findings of opinion polls and surveys shall indicate the number of people, geographical area on which the polls and surveys were conducted, and the identity of the poll-sponsor.

(17). Any kind of privilege or inducement, financial or otherwise, which is likely to create conflict of interest and any inducement offered to influence the performance of professional duties and is not compatible with the concept of a reputable, independent and responsible press, must be avoided.

Press Council of Pakistan drafts guidelines to cover elections

Obaid Abrar Khan Friday, March 01, 2013 From Print Edition

ISLAMABAD: Press Council of Pakistan (PCP) has drafted guidelines to cover general elections 2013 after consultations with all the media stakeholders, including APNS, CPNE, PFUJ, PBA, EJN, academia, Bar Associations and relevant civil society organisations, in Karachi, Lahore, Multan and Islamabad.

According to sources, PCP would publish these guidelines in next week in four languages including Sindhi, Balochi, Pashto and Urdu.

PCP will also set up a 'Press Monitoring Cell'.

It is mentioned in the guidelines that to harness pluralistic media development in Pakistan freedom of expression has been guaranteed by the Article 19(A) of the Constitution of Islamic Republic of Pakistan. With this constitutional guarantee coupled with section 8 (I) of the PCP Ordinance, the Council shall perform to help press to maintain its independence and to revise, update, enforce and implement the Ethical Code of Practice for media houses and media practitioners.

There are different sets of interlocking rights as media gears up its political socialization campaign that culminates in reporting Election Day event.

These interlocking rights are: People (voters) right to make fully informed choice before and during polls; contesting candidate's right to put his/her political vision and policies across using media platform; rights of media houses as corporate citizens of the land.

To ensure that these interlocking rights are not trespassed, media needs

Media Commission Report

to strive at all times to; passing on credible information without favouring any candidate to people to enable them to make an informed choice.

It is also mentioned in guidelines that: discrimination against any political party, leader or candidate shall be avoided; free functioning of all media platforms shall be protected while ensuring freedom of expression and upholding values attached to it; reach out to all communities without prejudice and making them aware of the election process and how they can freely exercise their right to vote.

Guidelines also suggest that keeping in view values of fair, unbiased and ethical coverage of elections, media should ensure that it (media) shall apply principles of fairness in the allocation of time and space in provision of coverage to political parties and candidates while recognizing that balance and fairness are achieved over a reasonable period of time.

The media shall reflect the voices of men and women and opinions of all sections of society and all democratic groups that uphold the Constitution of Pakistan and law/rules of the country.

All media, both public and private, shall observe the distinction between advertising and editorial content and shall not allow forms of advertising or paid political promotion to be disguised as editorial content.

Paid political content must be identified as such. A balance between broadcasting of paid for content and editorial content shall be maintained in line with agreed industry standards.

Media shall encourage election participation and shall, in particular, discourage; all forms of rumours, speculation, sensationalism and disinformation, particularly when these concern specific political parties or candidates, publication of unsubstantiated allegations or

personal remarks or opinions that are designed to be offensive and malicious and verify information regarding individuals or parties which is critical or negative before it is telecast, broadcast or published, and all forms of hate speech that can be interpreted as incitement to violence or has the effect of promoting public disorder.

This pledge to avoid inflammatory expression shall apply to coverage of political activities at all levels, including when it applies to the reporting of statements or remarks by political leaders or candidates. Media shall exercise caution in the use of opinion polls and surveys during electioneering process and especially close to Election Day. While publishing/broadcasting finding of opinion polls and surveys media shall indicate the number of people, geographical area on which the polls and surveys were based and the identity of the polls sponsor.

Media should report accurately the election results as they emerge from Election Commission of Pakistan and should avoid publications/broadcasting incomplete and unauthorized election results pouring in from different constituencies on Election Day.

All media shall ensure that all their staff designate to cover election, including those working at local level are well trained and politically neutral. Safety of journalists and media staff is paramount; all media and law enforcement agencies should take effective measures in this regard.

Candidates in elections shall not act as news anchors, interviewers or presenters of any type of programme during the election period. Journalists covering elections should distance themselves from being an agent of any political party/candidate. Journalists covering elections should not pay any political price by accepting any gifts/cash. Media must offer an equitable space and time to major political parties/contesting candidates in any constituency.

Media should resist pressure whatsoever by any political

party/candidate or their supporter for any favour with regard to elections. Likewise political parties/candidates and their supporters should keep their hands out of the affairs of the journalists and respect of freedom of press.

Media shall give the audience regular information about appropriate websites or other information source listing all candidates taking part in the elections. Media should act together to protect each other from acts of violence or political intimidation and ensure that fair and transparent systems are used for the allocation of state and political advertising related to the elections.

Steps to implement these media guidelines are as; having a statutory obligation to receive and decide public and private complaints in violation of identified benchmarks of media ethics for media coverage of elections, PCP shall act as a vanguard in protecting rights of media without sacrificing the true values of freedom of expression.

PCP monitoring cell will share gathered information with Election Commission, journalists, media houses and relevant stakeholders to ensure free and fair election.

The PCP will prepare a pre and post election monitoring report with regard to adoption and observance of the media guidelines for elections by PCP. When contacted by The News Spokesperson for PCP, Kashif Nawaz, said PCP would make public code of conduct for media for reporting general election 2013 in next week.

PAKISTAN COALITION FOR ETHICAL JOURNALISM

The Coalition is a network of media professional groups and leading journalists who are working together to promote fresh debate about how to

- Raise awareness among journalists at all levels about ethics and how to work professionally.
- Promote engagement and commitment from media owners to support good governance through transparency and accountability.
- Create stronger and more credible forms of self-regulation both inside media houses and within society at large.

The coalition was launched in May 2012. In its first year it has been hosted by Internews Europe with the financial support of the European Union. In 2013, there will be fresh evolution as the coalition grows and its activities broaden.

The Coalition will be an information resource on ethical, governance and self-regulation issues, and will work with all Pakistan stakeholders as an information-sharing network linked to an international partnership including the Online News Association, Association of Commercial Television, the International Press institute, the European Broadcasting Union, the World Press Freedom Committee, Media Diversity Institute.

Also part of the discussion on the creation of the Coalition are the International Federation of Journalists and the World Association of Newspapers and a new cross-platform editor's body the Global Editors Network which has agreed to facilitate the network.

The aim of the Coalition is to get Pakistan media back on an ethical track, promote co-operation, and to identify practical work to highlight the importance of professionalism in media work.

Code of conduct

This code, which has been drafted by the Pakistan Coalition for Ethical Journalism after consultation with Pakistan media and journalists at meetings in Karachi, Lahore and Islamabad, is submitted to all media and to media support organisations for their further consideration.

It is also submitted to the election commission and to all political parties, who are asked to recognise and support the self-regulating commitment of media, and to respect the right of all journalists to report freely in conditions of safety and security.

1. The aim of journalism on all media platforms is to provide coverage that is fair, unbiased and ethical. This is essential in reporting of political affairs and particularly at times of elections.

Media and ethical journalists in Pakistan strive at all times to

 a) avoid discrimination against any political party, political leader or candidate

b) provide information that will assist citizens to better understand the issues, policies and perspectives of all democratic participants in the election process

c) ensure all communities are made fully aware of the election process and how they can freely exercise their right to vote

3. Media recognise that it is not always possible to cover all candidates in an election, but they shall strive to ensure that all candidates representing democratic values and a credible and significant body of opinion shall be subject to scrutiny and appropriate media coverage.

4. Media shall apply principles of fairness in the allocation of time and space in provision of coverage to political parties and

candidates while recognising that balance and fairness are achieved over a reasonable period of time.

5. In line with their responsibility to be inclusive and independent, media will canvass the voices and opinions of all sections of society and all democratic groups in their coverage of political affairs and elections.

6. Media, both public and private, shall scrupulously observe the distinction between advertising and editorial and shall not allow forms of advertising or paid political promotion to be disguised as editorial content. Paid political content must be identified as such.

7. A balance between broadcasting of paid for content and editorial content shall be maintained in line with agreed industry standards.

8. Media shall encourage journalism of the highest ethical standards in their election coverage and shall, in particular,

a) Avoid all forms of rumour, speculation and disinformation, particularly when these concern specific political parties or candidates,

b) Forbid the publication of unsubstantiated allegations or personal remarks or opinions that are designed to be offensive and malicious and verify information regarding individuals or parties which is critical or negative before it is telecast, broadcast or published,

c) Ban all forms of hate speech that can be interpreted as incitement to violence or has the effect of promoting public disorder.

This pledge to avoid inflammatory expression shall apply to coverage of political activities at all levels including when it applies to the reporting of statements or remarks by political leaders or candidates. 9. Media recognise that the power of elections rests with the people of Pakistan and the voters. They will exercise caution in the use of opinion polls and agree to work together to ensure that announcement of results is managed in an equitable and transparent manner ensuring that all media are able to report accurately the results as they emerge from the ECP and the election control room.

10. All media shall ensure that all their staff, including those working at local level have employment rights and enjoy social protection. They shall prepare staff for the task of election coverage in line with the checklist of principles and actions attached to this code.

11. Safety of journalists and media staff is paramount and all media shall provide staff with training and advice on security issues with appropriate support including insurance.

12. Candidates in Pakistan elections shall not act as news anchors, interviewers or presenters of any type of programme during the election period.

13. When a candidate takes part in an item about his or her particular election, then candidates of each of the major parties shall be offered the opportunity to take part. However, if they refuse or are unable to participate, the item may nevertheless go ahead.

14. Broadcasters must offer the opportunity to major candidates to take part in discussions covering a particular electoral area. This also applies to independent candidates. However, if a candidate refuses or is unable to participate, the item may nevertheless go ahead.

15. All media shall give the audience regular information about appropriate websites or other information source listing all candidates taking part in the elections.

16. Pakistan media agree to establish an election media monitoring

group comprised of respected, non-partisan figures to protect the press from aggression and to investigate any incidents.

> a) The group will follow the coverage of the election and register all incidents of threats or intimidation or other improper violation of media rights to report freely. It shall receive and consider relevant information from media monitoring groups including the Press Council of Pakistan and PEMRA.

> b) It shall further be committed to protect the interests of media and should work under the umbrella of the Pakistan Broadcasters Association, the Pakistan Federal Union of Journalists, the Pakistan Newspaper Society and the Council of P a k i s t a n N e w s p a p e r E d i t o r s.

> c) This group shall deal with all complaints and issues arising from media coverage of the elections and shall strive to ensure professional respect for the principles and values set out in this code.

> d) The group shall ensure that media act together to protect each other from acts of violence or political intimidation and that fair and transparent systems are used for the allocation of state and political advertising related to the elections.

PAKISTANADVERTISERS SOCIETY (PAS)

Pakistan Advertisers Society (PAS) collectively speaks for the common interest of the advertisers and is representative of 80% of the ad-spend of Pakistan.

Chartered in 1996, PAS is governed by a board of Council Members and directed by an Executive Director. The prime objective of PAS is to 'empower its members' in dealing with the government, advertising agencies, media and other organizations integral to the advertising industry.

Code of advertising practice

The Code of Advertising Practice (COAP) has been developed by Pakistan Advertisers Society to promote best professional and ethical practices in the field of advertising and to ensure that the right of advertising is a responsibility towards the consumers and the society at large.

It covers the entire range of advertising activity and amended whenever there is an issue that requires review or updating. Explicit guidelines and interpretation shall be provided by the Standing Committee of Code of Advertising Practice on a case-by-case basis.

The function of the Code is to complement, not to replace, the law of the land.

Basic tenets of the code

The basic tenets of the code are:

- 1. It is held that the responsibility of advertisers, advertising agencies, media and other associated companies is a constructive force in business. To fulfill this responsibility, it is essential that the parties recognise their obligation to themselves and to each other.
- 2. As a business the industry must operate in the spirit of vigorous competition honestly conducted.
- 3. It is recognized that unethical competitive practices in the advertising business lead to financial waste, loss of prestige and to the weakening of public confidence, in both, the advertisements and the industry.
- 4. The right of advertising is a responsibility towards the

consumers and the society at large. Specifically the society members will not create advertising that is:

- o False or misleading visually or verbally.
- o Claims insufficiently supported that distort the true meaning or practicable application of statements made by professional or scientific authority.
- o Testimonials that do not reflect the real opinions of individuals involved.
- o Price claims that are misleading.
- o Statements, suggestions or pictures offensive to public decency or minority segments of the population.

PAS has constituted a **<u>COAP Standing Committee (CSC)</u>**. The CSC functions to implement and widen the workings of the Code.

COAP standing committee

The Code of Advertising Practice is implemented by a standing committee. The committee functions on the following basic constitution:

- 1. The CSC will comprise of members of Pakistan Advertisers Society.
- 2. It will be empowered to rule on any dispute relating to breaches of the COAP.
- 3. It will be empowered to ask for amendment or withdrawal of any advertisement which, in the opinion of the CSC is contrary to the Code of Advertising Practice.

- 4. It will be empowered to ask the media owners to support the decision of CSC.
- 5. It will be the responsibility of the CSC to recognize new areas over which the code could operate in the light of the developing needs of the advertisers and the environment. These however shall be agreed by PAS Council.
- 6. The CSC will hold quarterly meetings for internal discussion of the committee members and to review the workings and progress of the CSC.

ADVERTISING ASSOCIATION OF PAKISTAN (AAP)

Mission

To put the advertising agency profession at par with other professions and bring about closer communication, exchange of ideas and foster a spirit of professionalism across all members of the association.

Objectives

The objectives of Advertising Association of Pakistan are:

- 1. To provide professional foundation for effective cooperation amongst advertising companies.
- 2. To help raise professional and creative standards of the advertising industry.
- 3. To ensure that all advertising produced by its member agencies is legal, decent, honest and truthful.
- 4. To promote mutually beneficial relations between the advertising companies, media organizations and advertisers for effective use of mass communications.

5. To disseminate information about advertising and promote international cooperation through seminars, conferences and congresses.

Aims

The aims for which the Association is established are:

I. To encourage the companies, bodies, firms, Individuals carrying on the business of advertising in Pakistan as aforesaid.

II. To co-operate & act together for the purposes aforesaid & to promote healthy growth of the business of advertising in Pakistan.

III. To promote the consideration & discussion of all the questions & challenges affecting the business of advertising.

IV. To give the government, Public bodies & other facilities for consulting with & ascertaining the view of individuals, firms, bodies, companies, corporations, local, national or multi national engaged in the field of advertising as regards matters directly or indirectly effecting their business.

V. To originate & promote amendments in the law & support & oppose alterations therein & to effect amendments in administration & the purpose aforesaid, to petition government to take such steps & proceedings as may be demand to be expedient.

VI. To establish, undertake, superintend, administer & contribute to any charitable or benevolent fund from whence may make donations or alms to deserving persons who may or have been egged in the business, profession of advertising or connected with any person engaged therein & to contribute to or otherwise assist any charitable or benevolent insinuation or undertaking.

VII. To undertake and execute any trust which may seem to the association conducive to any of the objects.

VIII. To receive donation and to fix and collect entrance fees, subscriptions and levies from members and to borrow any money, required for the purposes of the objects of association upon such terms and on such securities as may be determined.

IX. To purchase, take lease, exchange, hire, or otherwise acquire any real and personal property and any rights and privileges necessary or convenient for the purposes of the Association to construct, alter and maintain any buildings required for the purpose of the Association.

X. To file, prosecute, defend or concur, join or aid in filing and defending any such actions, suits, applications, appeals or other proceedings as the Association deems fit or which may be conducive to the attainments of the objects of the Association.

XI. To benefit Pakistani consumers and to protect their interests by helping to ensure that advertising is honest and in good taste.

XII. To benefit Pakistani advertisers by promoting their sales, increasing their sales and increasing productivity & profitability, to stimulate business and industrial activity.

XIII. To benefit media by establishing sound business practices between advertisers and advertising agencies and each of the various media owners.

XIV. To benefit the nation by harnessing advertising for the good of the country, its institutions, its citizens; to co-operate with the Government in promoting its social objectives and in the tasks of nation-building.

XV. To question advertising that is wasteful and extravagant; to make it possible for the small entrepreneur to grow through advertising and to compete with the biggest; to encourage market and media research; to serve society by meeting its social responsibilities.

XVI. To encourage the interest of young individuals in the business of communications, to assist in education and training programs and to provide information to benefit the members. Non-members are also provided this service for a fee.

XVII. To establish a common platform in building and sustaining the prestige of the advertising profession and to serve as a spokesperson against unwarranted attacks or restrictions on advertising.

XVIII. To establish a forum where representatives of advertisers, advertising agencies, media owners and Government can meet on mutual ground and examine problems of mutual concern.

XIX. To offer effective co-operation and liaison with Government officials and bodies for the purpose of broadening their understanding of the role of advertisers, advertising and advertising agencies.

XX. To co-operate with Government bodies in discussion of matters such as taxes, radio and TV advertising, legislation, political campaign advertising, controls on pharmaceuticals, advertising and other subjects of similar complexity and sensitivity.

XXI. To improve the image of the advertising industry and focusing on its role in economic development and employment through campaigns, seminars, press relations and direct contact with Government ministries.

XXII. To protect members' interests on issues related to Guidelines and rules of Commercial Broadcast, Sponsorship, Rates, Commission and Accreditation; working towards full service operations at all TV Channels and Radio Channels; promotion of better production values and effective advertising purchases.

REPORTING ELECTIONS: BROADCAST GUIDELINES

(ARTICLE 19, INDEX, REUTER FOUNDATION, UNESCO)

The following Guidelines govern the rules and practice relating to broadcast coverage of election campaigns. They are based on international standards and best comparative practice, and thus represent a goal to which all countries hosting elections should aspire.

The Guidelines are drawn from a more detailed set of Guidelines and commentary published by article 19, Global Campaign for Free Expression, Guidelines for Election Broadcasting in Transitional Democracies1, and the present version has been adapted slightly to focus on issues facing the media in Iraq during its first democratic elections.

Article 19 strongly recommends that government or State broadcasters be transformed into public service broadcasters, with independent governing boards. At the same time, we are of the view that, in most cases, private broadcasters also have a professional obligation to meet the standards outlined.

The Guidelines can be grouped into four main categories: the duty to inform; rules regarding election coverage; protection for freedom of expression during elections; and implementation/ applicability of the guidelines.

It may be noted that, throughout, the Guidelines refer to "parties or candidates". This is both to ensure their relevance to elections focusing on individuals (as in presidential elections) and to cover situations involving independent candidates.

Guidelines for Election Broadcasting

Guideline 1: Duty to Inform the Public

During the period preceding an election, publicly owned or funded media have a duty to ensure that the public are informed about relevant electoral matters such as the political parties, candidates, campaign issues and voting processes.

Guideline 2: Duty of Balance and Impartiality

Guideline 2

Publicly owned or funded media have a duty to be balanced and impartial in their election reporting and not to discriminate against any political party or candidate.

Other broadcasters may also be placed under a duty of balance and impartiality.

Guideline 2.1

This duty requires that news, current affairs, interview and information programmes must not be biased in favour of, or against, any party or candidate.

Guideline 3: Laws Restricting Freedom of Expression

Any laws that restrict freedom of expression in breach of international law should be abolished.

Guideline 4: Duty to Punish Attacks Against Media Personnel and Property

The authorities should make special efforts to investigate all acts of violence, intimidation or harassment directed against media personnel or the property or premises of a media outlet, and to bring those responsible to justice, particularly where the act was motivated by an intent to interfere with media freedom.

Guideline 5: Limits on Prior Restraint

Guideline 5

There should be no prior censorship of any election programme.

Guideline 5.1

The government should issue a clear statement that the media will not be penalised for broadcasting programmes merely because they are critical of the government, its policies or the ruling party.

Guideline 5.2

Neither the authorities nor media outlets should interfere with the broadcast of an election programme unless they are certain that this is necessary to prevent substantial harm, such as an act of violence. Any decision to restrain a programme should be subject to prompt review by an independent body in order to determine whether it was in conformity with these standards.

Guideline 5.3

The standards used in determining whether or not to broadcast an election programme must not be vague or broadly defined.

Guideline 5.4

Any post-broadcast penalty must be proportionate to the harm inflicted and should not be so large as to constitute an effective ban on a political party.

Guideline 6: Limits on Media Liability

The media should be exempted from legal liability for unlawful statements made by candidates or party representatives and broadcast during the course of election campaigns, unless the media outlet concerned has either taken specific steps to adopt the statements or where the statements constitute clear and direct incitement to violence and the media outlet had an adequate opportunity to prevent their dissemination

Guideline 7: Corrections and Replies

Any candidate or party which has been defamed or otherwise suffered illegal injury by a broadcast should be entitled to a correction or, where this would be an insufficient remedy, be granted an opportunity to reply. The correction or reply should be broadcast as soon as possible.

Guideline 8: News Coverage

Guideline 8

Publicly owned or funded media should be particularly scrupulous in complying with their obligations of balance and impartiality in their news and current affairs reporting. Other broadcasters should also be careful to comply with any obligations of balance and impartiality national law may place on them.

Guideline 8.1

The duty of balance requires that parties or candidates receive news coverage commensurate with their importance in the election and the extent of their electoral support.

Guideline 8.2

Publicly owned or funded media are urged not to broadcast editorial opinions at all, due to the potential for them to be confused with news. All broadcasters should endeavour to clearly identify editorial opinion and to avoid airing it during news programmes.

Guideline 8.3

Obligations of balance and impartiality imply that news coverage of press conferences and public statements concerning matters of political controversy (as opposed to functions of State) by the governing authorities should be subject to a right of reply or other equitable response from other competing parties. This obligation acquires even greater force when the person making the statement is also standing for office.

Guideline 9: Direct Access Programmes

Guideline 9

Publicly owned or funded media should grant all political parties or candidates airtime for direct access programmes on a fair and nondiscriminatory basis. Other broadcasters may also be required to provide such airtime.

Guideline 9.1

All parties or candidates that are formally registered should be granted access to some airtime for a country's first multi-party election.

Guideline 9.2

For the second or subsequent democratic election, airtime may be allocated on a proportional basis, according to objective criteria indicating general levels of support for the different parties. All parties should still normally receive some airtime. It is recommended that the allocation of airtime be carried out by an independent body in consultation with all the parties.

Guideline 9.3

The amount of time allocated should be sufficient for parties/candidates to communicate their messages.

Guideline 9.4

Direct access programmes should be aired at times when the broadcasts are likely to reach the largest audiences. The duty of balance would be breached if the programmes of some parties/candidates were aired at less favourable times than those of others.

Guideline 9.5

Time slots for direct access programmes should be assigned in an equitable manner.

Guideline 9.6

Direct access slots should be made available on equal financial terms for all parties/ candidates. For first-time democratic elections, publicly owned or funded media should provide a reasonable amount of time free of charge or for a nominal sum.

Guideline 9.6.1

If parties/candidates are to be allowed to purchase airtime for political advertisements, they should have access to such time on equal terms. In such cases, rates and overall limits may be set by regulation in order to limit the advantage of richer parties. This is particularly appropriate during a first democratic election, especially where opposition parties had previously been proscribed and thus did not have the opportunity to raise funds.

Guideline 10: Special Information Programmes

Guideline 10

During elections, the media should broadcast special information programmes that provide an opportunity for members of the public to put questions directly to party leaders and candidates, and for candidates to debate with each other.

Guideline 10.1

Broadcasters have greater editorial discretion in relation to these programmes than the news but such discretion is subject to the general obligations of balance and impartiality.

Guideline 10.2

Journalists, experts and other questioners should be selected so as to ensure balance among the questions.

Guideline 10.3

Special information programmes should be aired during prime viewing or listening hours.

Guideline 11: Voter Education

Guideline 11

Publicly owned or funded media are obliged to broadcast voter education programmes, at least to the extent that this is not already sufficiently covered by other information initiatives.

Guideline 11.1

Voter education programmes must be accurate and impartial and must effectively inform voters about the voting process, including how, when and where to vote, to register to vote and to verify proper registration, the secrecy of the ballot (and thus safety from retaliation), the importance of voting, the functions of the offices that are under contention, and similar matters.

Guideline 11.2

These programmes should reach the greatest number of voters feasible including, where relevant, through programmes in minority languages and targeting groups traditionally excluded from the political process, such as women and indigenous groups.

Guideline 12: Opinion Polls and Election Projections

Guideline 12

If a broadcaster publishes the results of an opinion poll or election projection, it should strive to report the results fairly.

Guideline 12.1

Opinion polls should be accompanied by information to assist viewers/listeners to understand the poll's significance, such as who

conducted, commissioned and paid for the poll, the methodology used, the sample size, the margin of error, and the fieldwork dates.

Guideline 13: Regulatory and Complaints Mechanisms

Guideline 13

Election broadcasts should be monitored and regulated by an independent, impartial body.

Guideline 13.1

The body should allocate time for direct access programmes and should have the power to hear and take binding action on complaints concerning broadcast-related violations by the media, political parties or candidates, including by ordering a correction or reply.

Guideline 13.2

The body should render complaints decisions promptly.

Guideline 13.3

If there is a regularly constituted, independent broadcast-monitoring body, it may carry out these functions; otherwise, a special body should be established for this purpose.

Guideline 13.4

The body should not be able to take decisions only upon the strength of the votes of the appointees of the government or of one party.

Guideline 14: Judicial Review

Actions and decisions of any body charged with regulating election

broadcasts should be subject to judicial review, which should be carried out on an expedited basis.

Guideline 15: Plebiscites and Referendums

In plebiscites and referendums, where the voters have the choice only of voting "yes" or "no" to a particular proposition, equal airtime should be allocated to each side. This formula stands even if more parties support one side of the issue than the other. Guidelines 1-14, to the extent relevant, are also applicable.

Guideline 16: Local Elections

The preceding Guidelines should be appropriately modified and applied by local and regional government media in local, municipal and regional elections.

For more information see

webworld.unesco.org/download/fed/iraq

or

www.indexonline.org.

GREAT BRITAIN'S ELECTORAL COMMISSION'S MEDIA HANDBOOK

How are Party Election Broadcasts allocated?

The Communications Act 2003 requires certain broadcasters to carry Party Election Broadcasts (PEB) (or Party Political Broadcasts (PPB)) based on allocation rules created by Ofcom. These rules apply to ITV1, Channel 4, Five, talkSPORT, Virgin AM and Classic FM.

S4C is required to carry broadcasts under the Act but is regulated by the Welsh Authority.

The BBC is required to carry PEBs under its Charter and Agreements but is not regulated by Ofcom.

Sky is not required to carry PEBs but has done so voluntarily in the past.

Parties qualify for a broadcast on the basis of contesting one-sixth or more of the seats up for election. England, Scotland, Wales and Northern Ireland are considered separately. Parties may receive additional broadcasts depending on their level of past and/or current electoral support.

Political parties pay for and produce the content of PEBs, which must observe the law – for example, on copyright, libel, contempt, obscenity, incitement to racial hatred or violence. They must comply with the Ofcom Broadcasting Code or BBC Editorial Guidelines that relate to harm and offence and fairness and privacy.

To find out more from the Broadcasters Liaison Group, a group of Ofcom broadcasters that discusses the allocation of PEBs visit

www.broadcastersliaisongroup.org.uk

What are the rules on political impartiality for broadcasters and programme makers?

Political impartiality in broadcasts is covered by the editorial guidelines or code relevant to that particular broadcaster.

The BBC's editorial guidelines on broadcasting during an election can be found at www.bbc.co.uk/guidelines/editorialguidelines/edguide/ politics/broadcastingdur.shtml. The Ofcom Broadcasting Code can be found at www.ofcom.org.uk/tv/ifi/codes/bcode/elections/

BBC GUIDELINES FOR ELECTIONS COVERAGE

Section 10: Politics, Public Policy and Polls Elections

Broadcasting During Elections

10.4.16

The BBC's commitment to impartiality and fairness is under intense scrutiny when reporting election campaigns. Political parties are likely to seek to influence editorial decisions.

Programme makers and other content producers should take all complaints seriously and be aware that anything they say may be construed as "BBC policy". It should be explained to complainants that general complaints or allegations of bias must always be dealt with at a higher level, and the complaint should then be referred accordingly.

10.4.17

We should make, and be able to defend, our editorial decisions on the basis that they are reasonable and carefully reached, with due impartiality. To achieve this we must ensure that:

news judgements continue to drive editorial decision making in news based programmes

- news judgements at election time are made within a framework of democratic debate which ensures that due weight is given to hearing the views and examining and challenging the policies of all parties. Significant smaller parties should also receive some network coverage during the campaign
- when producing UK-wide output, we are aware of the different political structures in the four nations of the United Kingdom and that they are reflected in the election coverage of each nation.

10.4.18

The way in which due impartiality is achieved between parties will vary, depending on the format, output and platform. It may be done in a single item, a single programme, a series of programmes or items, or over the course of the campaign as a whole. But programme makers and content producers must take responsibility for achieving due impartiality in their own output and not rely on other BBC content or services to redress any imbalance for them.

Reporting UK Election and Referendum Campaigns

10.4.19

The BBC is required by law to adopt a code of practice at each election to govern the participation of candidates in each constituency or electoral area. In doing so, the BBC is required to "have regard to any views expressed by the Electoral Commission".

Election and referendum guidelines for TV, radio and online coverage, including message boards, will be drawn up by Chief Adviser Politics, agreed by the BBC Trust and published before each campaign.

10.4.20

On polling day the BBC, in common with other broadcasters, will cease to report campaigns from 06.00 until the polls close. Coverage will be

restricted to uncontroversial factual accounts, such as the appearance of politicians at polling stations or the weather. Subjects which have been at issue or part of the campaign, or other controversial matters relating to the election, must not receive coverage on polling day, to ensure that nothing in the BBC's output can be construed as influencing the ballot while the polls are open.

BBC'S ELECTION GULDELINES FOR MAY 2013

For details see website:

http://www.bbc.co.uk/guidelines/editorialguidelines/news/news-2013-3-12/

Annexure of Part Two (listed only, not reproduced).

ANNEXURES IN PART-TWO OF THE REPORT

- 1. Letter dated 17th September, 2012 from Law & Justice Division
- 2. List of 64 media-related laws administered by the Ministry of Information & Broadcasting.
- 3. Letter dated 1st January, 2013 from Law & Justice Division.
- 4. Annual Report of PEMRA, 2002.
- 5. 11-Page statement by PEMRA through Ministry I&B 2013.
- 6. Letter/statement dated 22nd February, 2013 by Cable Operators Association of Pakistan.
- 7. BBC Charter.
- 8. Statement on PBC through the Ministry of I&B.
- 9. Statement on PTV through Ministry of I&B.
- 10. Statement on APP through Ministry of I&B.
- 11. Self-Regulatory Codes of India, Bangladesh, Sri Lanka.
- 12. Self-Regulation by UK Press Complaints Commission.
- 13. Self Regulation by Press Council of India.
- 14. Excerpt from statement by Ministry of I&B on TOR No.G
- Statements by some stakeholders i.e. Ministry of I&B, APNS, AAP, BISP, PBA, Independent Media Corporation, Media-Logic and PAS
- 16. Documents provided by Midas (Pvt) Limited and Mr. Asad Kharal.
- 17. Letter addressed to MD, PPRA.

Elements About The Consultative Roundtables....

<u>Elements about the Consultative Roundtables held to</u> <u>review the Recommendations of the Media Commission</u> <u>appointed by the Supreme Court of Pakistan, 2013:</u>

1. In end-June 2013, the Supreme Court of Pakistan invited all stake-holders and the public to provide feedback to the Court on the Report of the Media Commission (placed on the website of the Supreme Court of Pakistan).

2. In response, eight Roundtables were initiated and organized by the Citizens' Initiative on Media Issues (CIMI), an informal, independent network of concerned citizens, with the co-operation of other forums as named below and with funding support for logistics provided by the Pakistan office of the German foundation, Friedrich Ebert Stiftung.

3. No public funds were used to meet the costs of the consultative process.

4. Six out of eight Roundtables were organized between 26th August 2013 and 8th October 2013 by CIMI with the Departments of Mass Communication/Journalism of the following premier Universities:

- (i) University of Karachi
- (ii) Fatima Jinnah Women's University, Rawalpindi
- (iii) Bahauddin Zakariya University, Multan
- (iv) University of Peshawar
- (v) University of Punjab, Lahore
- (vi) Balochistan University of Information Technology & Management Sciences, Quetta.

The civil society organization which helped organize the Roundtable in Hyderabad was the Centre for Peace and Civil Society (CPCS) and the Roundtable in Islamabad was the Society for Alternative Media (SAMAR).

SPO (Strengthening Participatory Organization), a leading nation-wide civil society forum extended valuable support for all eight Roundtables.

5. About 40 to 50 individuals comprising media studies' faculty, students, civil society activists and journalists participated in each

Roundtable. In Multan, the student- participants were in larger numbers.

6. Thus, about 400 Pakistani citizens with a deep, well-informed interest in media issues took an active part in the deliberations lasting about 3 to 4 hours at each Roundtable.

7. Women participated in significant numbers. Each person present recorded her/his respective names in writing.

8. The quality of participation in discussions was active, engaged and constructive.

9. An Assessment form was provided to each participant to record views about each of the 32/33 Recommendations listed. Some Recommendations were not listed, due to time-constraints.

10. The form provided three choices for marking opinions about each Recommendation :

- Endorsed
- Endorsed, but with some qualifications/observations
- · Not Endorsed

11. Out of about 400 participants, 367 recorded their views/preferences and handed over the forms, all of which are preserved.

12. An overwhelming majority, i.e., over three-fourths of all participants representing a rich diversity of disciplines, viewpoints, languages, cultures, and in all four Provinces of Pakistan nevertheless ENDORSED ...without qualification...all the Recommendations made by the Media Commission .

13. Responsibility for implementing the Recommendations begins with the media sector itself (principally, owners of media), and includes Parliament, Government, Judiciary, advertisers, advertising agencies, media houses, ratings agencies, civil society forums and citizens at large.

14. It is notable that to date, by November 2013, i.e. over four months since the full Report was submitted to the Supreme Court and its text placed on the SC's website, discussion about the Recommendations

and the content of the Report has been confined to an astute analysis on the editorial page of Dawn (29th July 2013), a couple of news reports in The News/Jang and a 40-minute discussion on Waqt TV in October 2013.

15. By and large, the media themselves do not indicate any interest in reviewing the Report in depth. This possible disinterest is because the first set of Recommendations call for reformative actions by media owners, practitioners and journalists themselves!

16. However, Parliament and civil society forums as vital custodians of the public interest bear a critical responsibility to review the issues and suggestions contained in the Report, and to initiate actions for reform in all the related spheres.

17. It is hoped that with the opinion/decision to be rendered by the Honourable Bench on the Report of the Media Commission, the required deliberations and actions will be undertaken by all the concerned sectors.

18. The tabulated responses of 367 participants of the eight Roundtables as recorded on the Assessment forms are reproduced below.

Assessment of 33 Recommendations of the Media Commission completed by participants of consultative workshops (End-August / September 2013)

PAKISTAN 367 Respondents

12 Recommendations in Part One of the Report

Recommendations by the Media Commission submitted on 21st March 2013 for consideration by the Supreme Court to enable fulfilment of the aim described in TOR No.F i.e. "To enquire into allegations of media-related corruption and suggest steps to ensure impartial and independent media for the upcoming elections."

In some cases the text of the recommendation has been adapted from the original

No.	Recommendations	City	Endorsed	Endorsed with Qualifications	Not Endorsed	No Reply	Total
01.	The Commission concluded that there were/are eleven modes and sectors by which actions could be taken to ensure impartial and independent media during the Elections 2013: The Commission pointed out that the eleventh mode will require actions and measures going into the post-Elections 2013 phase to achieve conclusive aims.	Lhe Khi ISB RWP PSR QTA HDB MLTN TOTAL	39 41 17 33 32 39 30 54 285	11 4 3 6 5 12 3 12 56	1 1 3	4 1 3 1 3 4 1 6 23	54 46 23 41 41 55 34 73 367

Total Respondents = 367

No.	Recommendations	City	Endorsed	Endorsed with Qualifications	Not Endorsed	No Reply	Total
	Through self-regulation by media organizations themselves, by individual media proprietors, journalists, practitioners: To refine, expand, practice and enforce existing Codes of Ethics of/by media organizations themselves and by individual media practitioners and journalists with special reference to the most recent Guidelines formulated in countries with long-established democratic systems of United Kingdom, India, etc.						
02.	Each newspaper/magazine, FM radio and TV channel should appoint an Internal Ombudsman to provide an opportunity to citizens to convey complaints for scrutiny and action independent of the management and ownership of the media.	Lhe Khi ISB RP PSR QTA HDB MLTN TOTAL	44 31 19 33 33 37 24 57 278	6 11 2 6 4 11 7 12 59	1 1 2 1 6	3 3 2 2 4 6 1 3 24	54 46 23 41 41 55 34 73 367

No.	Recommendations	City	Endorsed	Endorsed with Qualifications	Not Endorsed	No Reply	Total
03.	That through both voluntary actions by media and through the initiative of ECP, a new level of optimal transparency about rates and costs of political advertising on TV, radio and print media can be achieved to provide a level playing field to all candidates and political parties. That the Election Commission of Pakistan may wish to consider establishing a specially- created Political Advertising Cell in ECP. The responsibility of this Cell would be to act as a central coordination point for the booking of and payment for, all political advertising in media during Election 2013. The purpose of this Cell will be to ensure transparency and observance of prescribed limits on expenditure. Facilities to support this Cell can be instantly obtained through the Federal Press Information Department and the Information Departments of the four Provincial Governments.	Lhe Khi ISB RP PSR QTA HDB MLTN TOTAL	43 30 19 35 29 38 27 59 280	6 5 2 5 6 12 4 12 52	1 7 3 1 1 1 1 1 4	4 4 2 1 3 4 2 1 21	54 46 23 41 41 55 34 73 367

No.	Recommendations	City	Endorsed	Endorsed with Qualifications	Not Endorsed	No Reply	Total
04.	That civil society networks of Observers should be used at each local constituency level to monitor use of both mass media and community-based media during the Elections.	Lhe Khi ISB RP PSR QTA HDB MLTN TOTAL	47 31 16 29 31 36 29 56 275	4 10 2 11 7 11 3 13 61	3 2 1 6	3 2 5 1 3 6 2 3 25	54 46 23 41 41 55 34 73 367
05.	That PEMRA should be directed by the Court and by the Election Commission of Pakistan to strictly enforce the existing Rules & Regulations applicable to both satellite TV channels, FM Radio channels and to Cable TV Operators.	Lhe Khi ISB RP PSR QTA HDB MLTN TOTAL	43 34 15 35 27 42 26 59 281	7 9 2 6 4 8 2 9 47	1 5 3 1 10	4 3 5 5 5 3 4 29	54 46 23 41 41 55 34 73 367
06.	That Internet-based media, which are estimated to be used by as many (or more) people as those who use print media, should also be subject to ethical and professional norms and principles.	Lhe Khi ISB RP PSR QTA HDB MLTN TOTAL	43 35 15 30 31 39 29 61 283	6 5 6 11 5 10 2 9 54	2 1 1 4	3 6 2 4 5 3 3 26	54 46 23 41 41 55 34 73 367
07.	That State-owned media (PBC, PTV, APP) should be given directions by the Election Commission of Pakistan to ensure that Government control of these media/entities does not prevent them from remaining impartial and balanced before and during the election phase in particular.	Lhe Khi ISB RP PSR QTA HDB MLTN TOTAL	47 38 18 34 32 40 31 58 298	4 3 3 6 5 9 2 12 44	2 1 1 5	3 3 2 4 5 1 2 20	54 46 23 41 41 55 34 73 367

No.	Recommendations	City	Endorsed	Endorsed with Qualifications	Not Endorsed	No Reply	Total
08.	That special measures should be taken by the Caretaker Government to provide safety and security to working journalists during the Elections phase.	Lhe Khi ISB RP PSR QTA HDB MLTN TOTAL	46 39 11 38 36 45 31 61 307	4 3 10 2 1 6 2 9 37	1 1 1 3	4 4 2 4 3 1 2 20	54 46 23 41 41 55 34 73 367
09.	That political parties and candidates should also ensure due care and restraint in their dealings with media in the Elections phase.	Lhe Khi ISB RP PSR QTA HDB MLTN TOTAL	46 30 13 32 32 41 30 62 286	2 6 5 5 1 7 2 7 35	2 1 2 2 1 8	6 8 5 3 6 5 2 3 38	54 46 23 41 41 55 34 73 367
10.	That the presence of international observers during the Elections phase will act as a positive factor to help media to render an impartial and independent role.	Lhe Khi ISB RP PSR QTA HDB MLTN TOTAL	37 37 16 28 26 34 26 48 252	5 4 2 8 4 7 5 12 47	6 1 1 8 1 4 21	6 5 4 5 10 6 2 9 47	54 46 23 41 41 55 34 73 367
11.	Some prominent persons in public life who appeared before the Commission were of the view that irresponsibility and malice on the part of some media persons is also a form of corruption. They complained bitterly about the slander and defamation they have faced both through incorrect, unverified reports published in certain newspapers and through unfounded allegations made by certain TV anchors.	Lhe Khi ISB RP PSR QTA HDB MLTN TOTAL	44 36 16 40 29 44 27 64 300	6 2 5 1 6 6 4 5 35	1 1 3	4 8 2 5 5 2 3 29	54 46 23 41 41 55 34 73 367

No.	Recommendations	City	Endorsed	Endorsed with Qualifications	Not Endorsed	No Reply	Total
	They emphasized that if they were to file cases in court to seek damages and justice, the legal process would take several years and require high financial costs. Retractions and corrections by media , especially by TV channels is virtually non-existent. The Councils of Complaints under the PEMRA law are slow and ineffective. There is a need for independent mechanism to hold errant media and individuals accountable in a prompt and effective manner for unsubstantiated defamatory/derogatory statements made in media.						
12.	It was also stated that certain large private enterprises e.g. one or more firms in the construction and housing sector, use their vast financial resources to inhibit and discourage most private media from presenting independent critical analysis of the vested interests of such private firms due to the volume of advertising time and space bought by such firms, which bring financial benefit to proprietors of print and broadcast media.	Lhe Khi ISB RP PSR QTA HDB MLTN TOTAL	43 32 16 38 29 42 28 60 288	6 4 1 5 8 3 9 36	1 2 1 4	4 10 7 2 5 5 3 3 39	54 46 23 41 41 55 34 73 367

			with Qualifications	Endorsed	Reply	
no.4 "W by t sca com diff rela the spe invo pre- indo ade ford lega rela exa bott alle are alle deto the Tho the spe invo pre- indo ade ford lega rela the spe aud ade ford lega rela exa bott alle are alle are alle are alle are alle ford lega rela the spe invo pre- indo ade ford lega rela exa bott alle are alle are alle are alle are alle are alle are alle are alle are alle for co lega rela exa bott alle are alle for co lega rela exa bott alle are alle for co lega rela exa bott alle are alle for co lega rela exa bott alle for co lega rela exa bott alle for co lega rela action for co lega rela exa bott alle for co lega rela exa alle for co rela exa bott for co rela exa co co co co co co co co co co co co co	stated elsewhere in s Report i.e. in para .4 of the section titled: /orking methods used the Commission", the ele, nature and mplexity of the ferent types of media- ated corruption require e application of ecialized, professional vestigative skills eferably by lependent, non-official ecialized firms of ditors, etc., backed by equate resources, the ree of law and other gal means to obtain all ated documents, amine/cross-examine th those making egations and those who e the subject of the egations. The Commission is of e opinion that fficient grounds exist forensic audits and tailed investigations several transactions d aspects referred to the petitions mitted by the Court d aspects of media- ated corruption in is Report.					

21 Recommendations in Part Two of the Report (The text given below is an adapted version derived from the original, larger text in the Report /Executive Summary)

Respondents = 367

(Except in question 3 which was not included in the questionnaire of Karachi & Hyderabad)

No.		City	Endorsed	Endorsed with Qualifications	Not Endorsed	No Reply	Total
01.	Print and electronic media i.e. newspapers, magazines, TV and news channels, individually and through their respective representative bodies should conduct candid, self-critical reviews of their own performance to take practical, visible actions to remove flaws and enhance standards. This process should be reported to the public at large.	KHI LHE ISB RWP PSR QTA MLTN HDB TOTAL	40 38 18 32 30 44 64 30 296	4 11 9 7 5 6 3 46	- - - 1 - 1	2 5 4 - 4 5 3 1 24	46 54 23 41 41 55 73 34 367
02.	The National Assembly, Senate and four Provincial Assemblies should conduct a comprehensive review of media-related legislation (about 64 existing laws) policies and rules to remove defects and to update them to contemporary conditions in order to prepare for the rapidly changing	KHI LHE ISB RWP PSR QTA MLTN HDB TOTAL	38 42 15 36 31 37 55 27 281	5 4 5 4 5 11 11 5 50	1 1 - - 2 1 1 6	2 7 3 1 5 5 6 1 30	46 54 23 41 41 55 73 34 367

No.		City	Endorsed	Endorsed with Qualifications	Not Endorsed	No Reply	Total
	conditions e.g. introduce new laws where required : for instance : to regulate advertising through an Advertising Council; to ensure credible TV audience ratings systems, etc. Therefore, the Commission is of the view that the Standing Committees on Information & Broadcasting of the National Assembly and the Senate establish a Media Laws Review Task Force comprising media specialists, to conduct a comprehensive review over, say, a 6- months period of all media laws, rules, regulations and Codes in the context of the new objective conditions and make appropriate recommendations for new laws, amendments to existing laws, rules etc						
03.	Subject to reform and restructuring as detailed elsewhere and in other following recommendations, The Ministry of Information and Broadcasting should be renamed and retained to serve as a non- propagandist focal point for the policy dimensions of the information sector.	KHI LHE ISB RWP PSR QTA MLTN HDB TOTAL	- 36 16 29 25 36 53 - 195	- 6 4 11 9 9 14 - 53	- 4 - 1 2 - - 7	- 8 3 - 5 10 6 - 32	- 54 23 41 41 55 73 - 287

No.		City	Endorsed	Endorsed with Qualifications	Not Endorsed	No Reply	Total
04.	Departments of the Federal Ministry of Information and Broadcasting such as the Audit Bureau of Circulation (ABC), Press Information Department (PID), and others as well as the Provincial Departments of Information should be significantly reformed to curb malpractices, corruption etc.	KHI LHE ISB RWP PSR QTA MLTN HDB TOTAL	39 40 19 35 34 42 64 26 299	2 9 1 6 2 7 5 4 36	- - - 1 1 - - - 3	5 4 3 - 4 5 4 4 29	46 54 23 41 41 55 73 34 367
05.	The existing centralized system of control by PID on the selection of advertising agencies and selection of media for advertising by Government entities should be replaced with horizontal de- centralization and de- control to be replaced by a new accountable, monitored, autonomy- based framework. Four determinant factors can shape the new policy: (I) De-centralization (ii) Guidelines by the Federal Government (iii) Comprehensive, multi-media policy Monitoring without controlling	KHI LHE ISB RWP PSR QTA MLTN HDB TOTAL	35 45 19 32 30 44 62 25 292	8 5 1 9 2 3 6 7 41	1 - - - - - - 6	2 4 3 - 6 8 3 2 28	46 54 23 41 41 55 73 34 367

No.		City	Endorsed	Endorsed with Qualifications	Not Endorsed	No Reply	Total
06.	Without prejudice to the earlier Recommendation regarding renaming/retaining the ministry of Information: In view of continuing convergence of technologies and overlaps, synergies etc. the Ministries of Information and Broadcasting and of Information Technology (as well as) regulatory bodies such as the Pakistan Electronic Media Regulatory Authority (PEMRA) and the Pakistan Telecommunication Authority (PTA) should be merged into a single Ministry and a single regulatory entity (on the lines of Ofcom in the UK). Cinema should also be brought under this new single entity.	KHI LHE ISB RWP PSR QTA MLTN HDB TOTAL	25 35 15 34 30 37 58 26 260	15 9 3 6 5 7 9 6 60	4 4 - 1 1 6 2 1 19	2 6 5 - 5 5 4 1 28	46 54 23 41 41 55 73 34 367
07.	Instead of the existing discretionary power of the Prime Minister / Minister: The mode for the appointment of the Chairman and Members of the existing electronic media regulatory authority (PEMRA) or a single new entity should be changed to enable options from the Speaker	KHI LHE ISB RWP PSR QTA MLTN HDB TOTAL	34 40 14 39 31 40 65 29 292	6 7 4 2 3 5 3 3 3 3 3 3	1 1 - - 3 1 1 - 7	5 6 5 - 4 9 4 2 35	46 54 23 41 41 55 73 34 367

No.		City	Endorsed	Endorsed with Qualifications	Not Endorsed	No Reply	Total
	of National Assembly, Chairman of the Senate, leaders of the Houses and the leaders of the Opposition in the Federal Parliament and eminent citizens, media, non- Muslims to recommend the shortlists of persons with acknowledge expertise.						
08.	Without banning content from overseas countries from being screened in Pakistan, appropriate new measures should be taken by the relevant authorities e.g. Ministries, PEMRA, Pakistan Broadcasters' Association (PBA) etc. to provide minimal scope and opportunity on fair and equitable terms to Pakistani producers, directors, writers, actors, and talent for being able to obtain screening on TV channels and in cinema theatres of content originated by, or produced/financed by Pakistani sources.		33 42 14 28 28 39 61 29 274	7 6 5 13 7 11 10 4 63	1 2 - 2 1 - 6	5 4 4 2 1 24	46 54 23 41 41 55 73 34 367
09.	PEMRA should conduct regular, structured dialogue with all stake- holders and groups such as civil society groups representing viewers and listeners of TV and radio channels, PBA, cable TV distributors, advertisers and advertising agencies to resolve concerns and complaints.	KHI LHE ISB RWP PSR QTA MLTN HDB TOTAL	36 41 15 38 33 46 64 25 298	1 7 2 3 2 5 5 5 5 - 25	- 2 1 - 1 - - 4	9 4 5 - 5 4 4 9 40	46 54 23 41 41 55 73 34 367

No.		City	Endorsed	Endorsed with Qualifications	Not Endorsed	No Reply	Total
10.	The High Courts and the Supreme Court of Pakistan should expedite hearings and disposals of the large number of cases (e.g. 72, according to one estimate) dealing with electronic media on which stay-orders are in operation.	KHI LHE ISB RWP PSR QTA MLTN HDB TOTAL	39 45 16 40 34 48 59 30 311	- 3 2 1 1 1 6 3 17	3 1 - - 1 1 1 - 6	4 5 5 - 6 5 7 1 33	46 54 23 41 41 55 73 34 367
11.	The private TV news channels should respect the sanctity of facts and the ethics of journalism: they should keep separate the content of news from their own comments and entertainment material, to stop the use of "infotainment" in news bulletin by playing songs and making inappropriate remarks while showing images of leaders and of events. Such caricatured content can be shown separate satirical shows.	QTA MLTN HDB TOTAL	40 42 17 34 33 42 62 26 296	3 5 2 7 4 7 6 7 41	1 1 - - 2 4 - 8	2 6 4 - 4 4 1 1 22	46 54 23 41 41 55 73 34 367
12.	Till the transition to digital broadcast technology is completed, PEMRA should freeze the issuance of any more licenses for TV channels because there is already a glut of numbers in analogue-based technology.	KHI LHE ISB RWP PSR QTA MLTN HDB TOTAL	32 36 16 36 26 38 55 28 267	6 8 2 5 7 8 13 4 53	5 5 1 - 4 5 2 1 23	3 5 4 - 4 4 3 1 24	46 54 23 41 41 55 73 34 367

No.		City	Endorsed	Endorsed with Qualifications	Not Endorsed	No Reply	Total
13.	To enable PEMRA to credibly curb the telecast of pirated/smuggled/illicit content from India, USA, and other sources, other government entities, Federal and Provincial such as, the Federal Board of Revenue/Customs, Federal Investigation Agency, Police Forces and Law Enforcement Agencies should take visible actions to prevent the smuggling and open sale of DTH (Direct-To-Home) set-top boxes from India.	KHI LHE ISB RWP PSR QTA MLTN HDB TOTAL	32 43 16 36 27 38 57 28 277	4 4 3 4 5 8 9 5 42	4 2 - 1 3 3 2 - 15	6 5 4 - 6 6 5 1 33	46 54 23 41 41 55 73 34 367
14.	PEMRA should be directed to formulate a fair, transparent policy to issue licenses on a non-auction basis, without applying a commercial approach, for community-based electronic media. PEMRA should be directed to revise its discriminatory exclusion of NGOs registered as social welfare associations, societies, trusts, not-for-profit joint-stock companies from being eligible applicants for community-based electronic media.	KHI LHE ISB RWP PSR QTA MLTN HDB TOTAL	36 30 20 37 30 44 64 28 289	4 15 - 4 6 3 5 3 40	2 4 - - 2 1 1 10	4 5 3 - 5 6 3 2 28	46 54 23 41 41 55 73 34 367

No.		City	Endorsed	Endorsed with Qualifications	Not Endorsed	No Reply	Total
15.	Transforming PBC, PTV and APP into authentically autonomous entities: Pakistan Broadcasting Corporation (PBC): To introduce an entirely new system and process for the appointment of the Chairman, Chief Executive and the Board of Directors, on lines similar to the new system proposed for PEMRA in Para-1 the section of this Report dealing with TOR No.B. Due to PBC's deep dependence on financial subsidies from the State, such State funding should continue but new checks and balances put in place to prevent such subsidies from becoming a partisan stranglehold.	KHI LHE ISB RWP PSR QTA MLTN HDB TOTAL	36 44 14 36 25 43 67 28 293	5 5 5 3 10 3 3 4 38	- 1 - 1 4 - 1 8	5 4 4 1 5 5 3 1 28	46 54 23 41 41 55 73 34 367
16.	Pakistan Televisions Corporation (PTV): Unlike PBC which has its own legislative cover through the PBC Act, 1973, PTV is a joint- stock company wholly owned by the State, and registered under the Companies Ordinance, 1984. The Commission recommends that due consideration be given to reducing the shareholding of the State in PTV by about 75% to reduce it to 25%, or less.	KHI LHE ISB RWP PSR QTA MLTN HDB TOTAL	39 41 16 36 24 40 59 29 284	4 7 1 3 11 6 10 3 45	1 1 2 - 2 3 - 1 10	2 5 4 2 4 6 4 1 28	46 54 23 41 41 55 73 34 367

No.		City	Endorsed	Endorsed with Qualifications	Not Endorsed	No Reply	Total
	That 75% shares be			~			
	offered to the public at						
	large through the Stock						
	Exchanges of the country						
	and through a special						
	public offering with the						
	conditionality that no						
	single organization/investor/citi						
	zen can hold more than						
	2% (two percent) of the						
	total shares. Owners of						
	TV channels should not						
	be eligible to own any						
	shares in PTV to prevent						
	conflict-of-interest. The						
	aim of dispersing and						
	diffusing ownership of						
	shares so broadly is to						
	prevent any single group						
	from exercising undue control over the editorial						
	policy and programme						
	content. Further, through						
	a system of time-bound						
	rotation, civil society						
	organizations of repute						
	such as those with long-						
	established records of						
	service in the fields of						
	education, health, human						
	rights, capacity-building,						
	micro-credit, etc.						
	professional associations, universities etc. could						
	also be given minimal						
	blocks of shares. While						
	the State's interests and						
	linkages would be						
	maintained through a						
	continued shareholding						
	by the State, the						
	Government-of-the-day						
	would no longer						
	exercise partisan						
	control of PTV.						

No.		City	Endorsed	Endorsed with Qualifications	Not Endorsed	No Reply	Total
	The public at large, represented by citizens as well as organizations, would gain the opportunity to redirect PTV to become a genuine public service broadcaster. To ensure efficiency, a management structure subject to bipartisan Parliamentary oversight could be established.						
17.	PTV: Due consideration would also need to be given towards placing PTV under the purview of the amended and reformed PEMRA law as suggested in the section of this Report dealing with TOR No.B.	KHI LHE ISB RWP PSR QTA MLTN HDB TOTAL	39 45 19 36 32 46 59 27 303	2 2 5 4 1 7 2 23	- 1 - 1 2 2 1 7	5 6 4 - 4 6 5 4 34	46 54 23 41 41 55 73 34 367
18.	PTV: The need to end the unfair monopoly status of PTV being the sole recipient of the TV license fee. Income from licence fees should be used to create a new service broadcasting network independent of State ownership and control.	KHI LHE ISB RWP PSR QTA MLTN HDB TOTAL	38 43 18 38 33 40 63 27 300	2 5 1 3 1 6 6 4 28	1 1 1 - 1 2 - 6	5 5 3 - 6 7 4 3 33	46 54 23 41 41 55 73 34 367

No.		City	Endorsed	Endorsed with Qualifications	Not Endorsed	No Reply	Total
19.	Associated Press of Pakistan: Consideration needs to be given to the possibility of reducing the State ownership of APP from the present level of 100% to a level such as 25% or less with 75% shares being offered to: (a) the present staff of APP in proportion to years of service, levels of performance with a proportionate reduction/surrender of shares, on retirement/removal from service, etc. (b) on a pattern similar to the one proposed for a new structure for PTV, the offer of limited blocks of shares to the collective representative bodies of media which use the output of APP e.g. All Pakistan Newspapers Society, Pakistan Broadcasters' Association etc.		38 44 17 37 31 44 62 24 297	3 6 2 3 5 1 5 6 31	1 - 1 2 1 2 8	4 4 3 1 4 8 5 2 31	46 54 23 41 41 55 73 34 367
20.	New legislation and reform of existing legislation for content self-regulation The Commission is of the opinion that it is not feasible to let the content of media be regulated exclusively through content self-regulation even after taking note of international standards	KHI LHE ISB RWP PSR QTA MLTN HDB TOTAL	36 35 13 34 26 35 53 30 262	5 8 2 3 6 - 6 2 32	1 - - - 1 - 3	4 11 7 4 9 20 13 2 70	46 54 23 41 41 55 73 34 367

No.		City	Endorsed	Endorsed with Qualifications	Not Endorsed	No Reply	Total
	and best practices. There is an inescapable, irreducible responsibility and need for the State to provide a legislative framework of guiding principles and norms, with adequate checks and balances that do not curb freedom of expression. Except for certain subjects of hypersensitivity and for subjects that, in any case, deserve circumspection, media in Pakistan already enjoy some of the highest levels of freedom, and of content self-regulation, in comparison to all other predominantly Muslim countries, and in comparison to most other countries in the regions of which Pakistan is simultaneously a part i.e. Central Asia, South Asia, West Asia, Gulf.						
21.	The funding for mechanisms that administer content self- regulation (e.g. Press Council of Pakistan) should be provided by the print media and the electronic media, rather than from the Government to ensure authentic independence and credibility of these mechanisms.	KHI LHE ISB RWP PSR QTA MLTN HDB TOTAL	35 40 17 35 32 47 59 27 292	6 6 - 5 3 - 4 1 25	- - - 1 - 2 1 4	5 8 6 1 5 8 8 5 46	46 54 23 41 41 55 73 34 367

On 12 December and 20 December 2013, in the National Assembly of Pakistan, in response to Questions put by Dr. Arif Alvi, MNA (Karachi), PTI, to the Federal Minister for Information, Broadcasting and National Heritage, Senator Pervez Rashid, regarding the views of the Government of Pakistan about the Report and Recommendations of the Media Commission, written Answers were provided to become part of the official Record.

The same are re-produced on the following pages

Oral Answer given on Thursday 12th December 2013 (p-20-21)

257. *Dr. Arif Alvi:

Will the Minister for Information, Broadcasting and National Heritage be pleased to state:

(a) whether it is a fact that the Media Commission has been appointed by the Supreme Court of Pakistan; 11

(b) whether it is also a fact that the report of the said commission has been made a public document by the Court during June, and is available on the website of the said Court;.

(c) whether it is further a fact that the Ministry formulated its comments/responses to each recommendation contained in the said report; if so, the detail of the comments; if not, the reasons thereof; and

(d) the time by which Ministry will finalize its comments thereon?

Minister for Information, Broadcasting and National Heritage (Mr. Pervaiz Rashid)

(a) Yes, Media Commission has been appointed by the Supreme Court of Pakistan, while rendering an order on 15th January, 2013 during the hearing of the Constitutional Petition No. 105/2012 along with CMAs-3795 & 3798 of 2012, HRC No. 23957-S/2012 & CMA 3464/12 and Constitution Petition No. 117/12.

(b) The said Commission has submitted its report in the Honorable Supreme Court of Pakistan on March 21, 2013 and June 3rd and 10 June 2013. The report is also available on the Supreme Court's website.

(c) Yes, the comments so filed are attached as Annexure-A.(d) Ministry has already submitted its response to the Supreme Court of Pakistan on 26-07-2013.

(Annexure has been placed in the National Assembly Library)

Oral Answer given on Monday 20th December 2013 (P19-21)

392. *Dr. Arif Alvi:

Will the Minister for Information, Broadcasting and National Heritage be pleased to state:

(a)whether it is fact that the rates of the Government advertisements for newspapers and magazines are substantially low as compared to private advertisements;

(b) whether it is also a fact that the rates of the Government advertisements for TV Channels are significantly higher as compared to the Private Channels;

(c) if the answer to part (a) and (b) above are in the affirmative, the justification thereof; and

(d) the step taken by the Ministry to end said discrimination causing loss to the public exchequer?

Minister for Information, Broadcasting and National Heritage (Mr. Pervaiz Rashid):

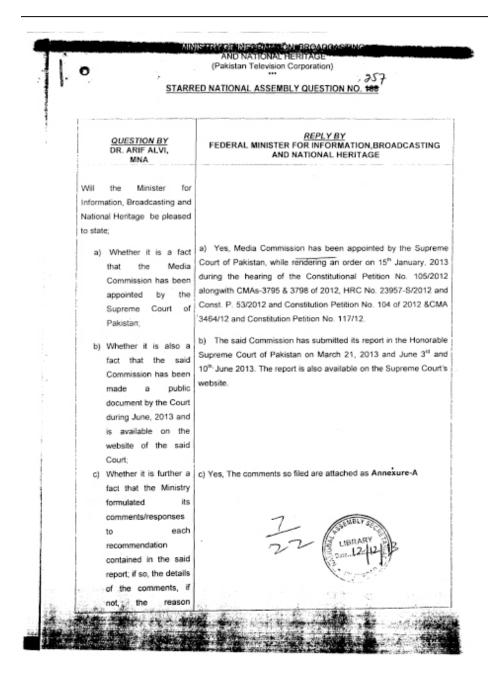
(a) The government advertisements are published in the newspapers and periodicals at rates fixed by the government on the basis of prescribed formula taking into consideration he circulation as audited by the Audit Bureau of Circulation (ABC). the government rates in print media are on lower side than the private advertisements since majority of these consist of tender notice, public service messages like vacancies available in public sector organizations etc. Whereas the private advertisements are initiated by the entities mostly aiming at earning profits by placing promotional ads to enhance the sales of their products and services.

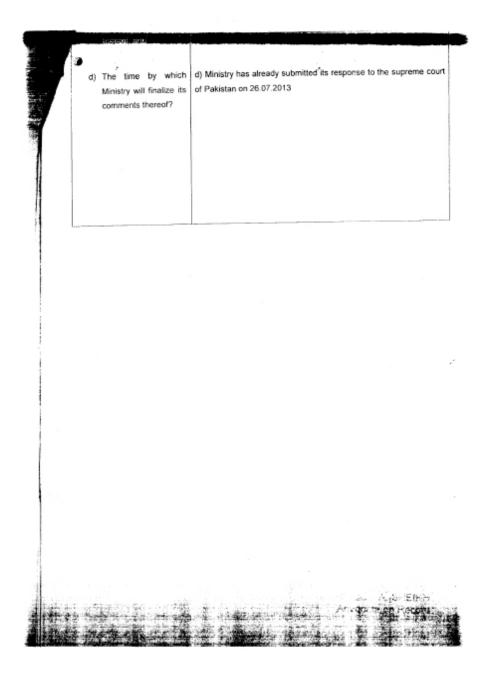
(b) It may be clarified that the government advertisement on electronic media are presently not being covered by the Centralized Advertisement policy of the Government. The Centralized Advertisement Policy caters to the print media only, covering ads released through the Press Information Department (PID) of the Ministry of I,B $\&\, \rm NH.$

As far as the release of advertisements to the electronic media is concerned, ground work has already been completed, and further progress would be made once the Federal Government issues directions in this regard to all the government controlled organizations / Ministries / Divisions and Public sector organizations would be asked to route their respective advertisements through the Press Information Department. In the present system of the release of government advertisement to electronic media, the tariff issue is being dealt with separately by each Ministry and Division through its respective advertising agency. the tariff may vary on case to case basis. For private commercial sector rates are flexible and negotiated between the channels and client. However, the is general assessment made during the evaluation process by the Ministry that the tariff charged from the government organizations is comparatively higher as compared to rates charged for advertisements from the private sector. Right now, no data is available in this regard, but once a policy decision is made regarding government advertisements on electronic media, a study on the subject can be conducted.

(c) The tariff for newspaper advertisements is an arrangement between the client and the newspaper management. The print media advertisement arrangement between government and newspapers operational with the consent of both the parties. As regards electronic media advertisements of the government, an arrangement is yet to be evolved.

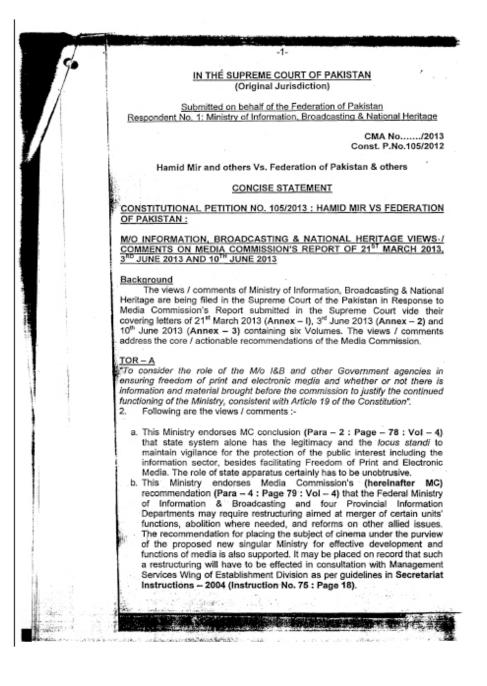
(d) The government believes in doing things through consultation and accommodation. Efforts are already under way to take the stakeholders on board and to arrive at a consensus solution. The issue would be addressed comprehensively in due course of time to the satisfaction of all concerned.

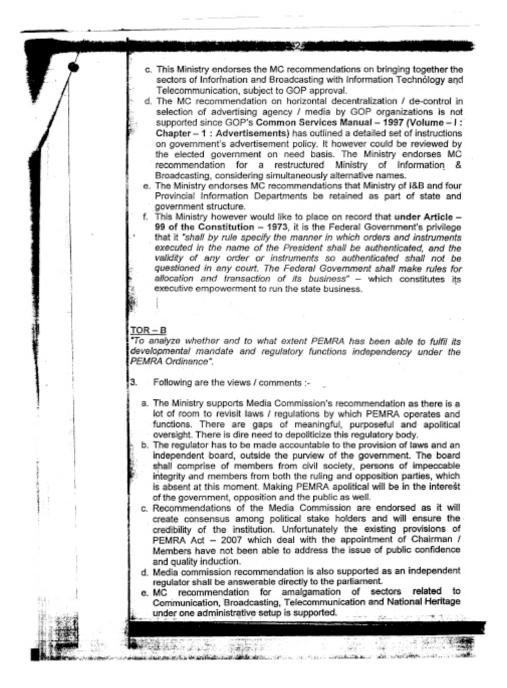




		Jurisdiction)	ISTAN
Resp	Submitted on behalf of ondent No. 1: Ministry of Inform	the Federation on nation, Broadcast	ing & National Heritage
			CMA No/201 Const. P.No.105/201
	Hamid Mir and others Vs. F	ederation of Pa	kistan & others
Respor	al for the Wi ndent Ad Su	th Mehmood A. S vocate-on-Recor preme Court of F . M.S. Khattak - /	Sheikh d ?akistan
S. No.	Documents	Date	Page
1.	Civil Miscellaneous Application	26-7-2013	1-7
	Application		
2.	Annex – 1 : Media Commission's covering letter	21-3-2013	8
	Annex – 1 : Media Commission's covering	21-3-2013 3-6-2013 -	8
2.	Annex – 1 : Media Commission's covering letter Annex – 2 : Media Commission's covering		
2.	Annex – 1 : Media Commission's covering letter Annex – 2 : Media Commission's covering letter Annex – 3 : Media Commission's covering	3-6-2013	9
2. 3. 4.	Annex – 1 : Media Commission's covering letter Annex – 2 : Media Commission's covering letter Annex – 3 : Media Commission's covering letter	3-6-2013 - 10-6-2013 -	9

- 0





- C recommendation that PEMRA should formulate appropriate policy to rotect local talent from unfair impact of foreign content is supported. MC recommendation for a structured dialogue with stakeholders like PBA, Cable TV distributors, advertisers and others is supported.
- 12 MC recommendation to freeze issuance of any more TV Channel
- licenses, till the transition to digital broadcast technology is completed, is supported.
- MC recommendation to empower PEMRA to credibly curb the telecast of pirated content from India, USA and other sources in coordination with other GOP entities like FBR, FIA and LEAs is supported.
- MC recommendation that PEMRA should formulate a transparent policy to issue licenses, without applying commercial approach, for community based electronic media, is supported.
- MC recommendation that community based electronic media's external financial sponsorship be ensured through EAD is supported.

TOR - C

To determine if it advances or is consistent with the fundamental right under Article 19 ibid to allow the Government or its instrumentalities to be major players in the media through State Television and Radio Broadcasters".

- Following are the views / comments :
 - a. This Ministry supports MC's observations at (Para 10 : Page 129 : Vol - 4) that Government and its instrumentalities have a valid right and role to be the major players in Electronic Media which is entirely consistent with the fundamental right under Article - 19 of the Constitution. Moreover, it again is supported that presence of state owned Electronic Media under GOP control provides a balance to otherwise imbalanced volume of negative comments, besides fulfilling the need for public interest
- b. Media Commission's observation (Para 14 : Page 132 : Vol 4) is supported which stipulates that private commercial media does not ensure projection of contents relevant to the subjects detailed in Article -19 of the Constitution.
- c. This Ministry would like to uphold Media Commission's (recommendation - 1 on TOR - C : Page 133 : Vol - 4) that there is justification for the government and its instrumentalities to be major players in media through PTV and PBC. However, a workable plan can be devised to follow BBC model as fine example of autonomy.

TOR – D

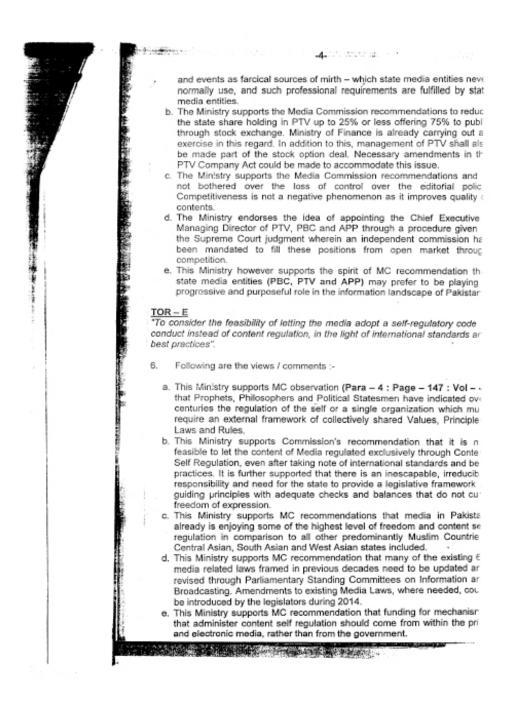
*To ascertain if PTV, PBC and APP, the recipients of public funding of billions of rupees, have independent in-house management and transparent policies in place which advance the objectives of fairness and even-handedness expected of publicity-funded entities and to determine if there are adequate checks against lop-sided or biased dissemination of information by these publicityfunded entities".

Following are the views / comments :-

CAMPAGE AND A SALE OF TAXABLE AND A SALE OF TAXABLE AND

and the second state of the second state of the second state of the

The Ministry supports MC's observation (Para - 10 : Page 139 : Vol - 4) that regular news bulletins of private electronic media present some news



TOR - F

"To enquire into allegations of media-related corruption and suggest steps to ensure impartial and independent media for the upcoming elections".

-5-

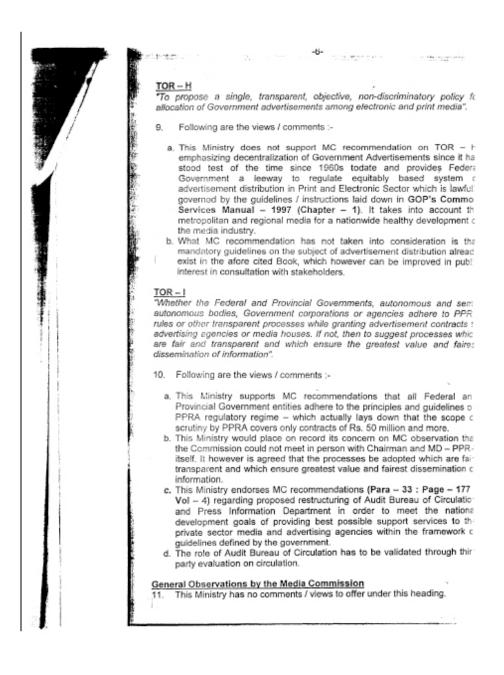
- 7. Following are the views / comments :
 - a. This Ministry also supports Para 23 of Supreme Court judgment dated 8-7-2013 which states that the historical analysis highlights the potential need for the government to put its Secret Service on a statutory footing for a more effective democratic control over their budgets, expenditures and activities.
 - b. It may however be noted that Finance Division vide Office Memorandum of 11th June 2013 has abolished Secret Services Expenditure (SSE) available with Federal Ministries / Divisions with effect from FY – 2013-2014.

TOR - G

"To inquire whether, when giving money to different media houses directly for or on the pretext of advertisements, where the government or its functionaries pursing a transparent, duly approved, bona fide Government Advertisement Allocation Policy or where the decisions to buy advertisement space with public money are made arbitrarily or without objective criteria or to favour particular channels, journalists or media houses".

8. Following are the views / comments :-

- a. This Ministry supports MC conclusion that the Ministry of I&B is not the only source for the use of Secret Funds in Media Sector which actually are available with several other Ministries and Departments. MC findings that the formulation of a written policy is the right and responsibility of an elected government in collaboration with the views of Civil Society and other stakeholders is the correct answer, and is supported.
- b. MC recommendation that aspects covered by TOR G be brought to the attention of the Parliamentary Committee on National Security and Standing Committees on National Assembly and Senate to recommend improvements in relevant policies and procedures so that positive goals indicated in TOR – G are achieved – is supported.
- c. This Ministry supports MC opinion that if the Hounourable Court deems appropriate, the required directions may be given to conduct independent inquiry to determine the veracity or otherwise of allegations in this sector (TOR – G).
- d. This Ministry supports MC conclusion that there exists a set of written advertisement policy containing guidelines on the subject explaining procedures, criteria and documentation requirement to be followed as explained in GOP's Common Services Manual – 1997 (Chapter – 1), read with, Rules of Business – 1973 (Schedule – II : Entry – 17 : Provision – 6). These instrumentalities reflect legal empowerment of Press Information Department of Ministry of I&B on the subject. Except procedural improvements / modifications in public interest, no parallel rule – framing on this subject is recommended.



ALL TO BE AN ADDRESS OF A DECEMBER OF A D -7-Conclusion 12: This Ministry would like to place on record its appreciation for the voluminous work done by Media Commission as per its mandate conferred by the Supreme Court of Pakistan vide its Short Order of 15th January 2013. (Dr. Nazir Saeed) Secretary Ministry of Information, Broadcasting & National Heritage Islamabad 7-2013 Theaste MEHMOOD AHMED SHEIKH Advocate Supreme Court / AOR Tel (Off): 0345-5510584 ı. C(rey :0/ 1307,

Financial record of the Commission's work

To enable the Media Commission to conduct its work as per the Terms of Reference, the Supreme Court directed the Ministry of Information and Broadcasting, Government of Pakistan to provide an adequate amount.

A total of Rs. 4 million was so provided, in two equal instalments. A bank account in the name of the Media Commission was opened and operated jointly by the Chairman and Member at the DHA branch of the National Bank of Pakistan in Karachi.

Expenses were incurred on : Staff salaries/Research fees ; Equipment ; Utilities ; Air travel ; Hotel accomodation ; Ground transport ; Press advertisements ; Meetings costs ; Miscellaneous.

The Chairman, Member and Secretary of the Commission served on a voluntary, honorary basis. Each of them periodically provided private facilities to facilitate the Commission's tasks.

An amount of approximately Rs.2.5 million was expended under the above heads. An amount of approximately Rs.1.5 million remains as balance in the Bank account, pending formal closure of the account and re-fund of the amount to the Ministry of Information and Broadcasting

Equipment such as computers, printer, etc purchased for the Commission was handed over to the Karachi office of the Ministry after completion of the Report.

In the first week of January 2014, all the financial records comprising vouchers, invoices, receipts, ledger, cheque book etc in original form, were despatched by TCS courier to the Registrar, Supreme Court of Pakistan for onward transmission and necessary action.

As of 3rd March 2014, the final opinion of the Honourable Bench of the Supreme Court regarding the Report and Recommendations is awaited.

A first-ever Report of its kind in Pakistan ----conducted on the directive of the Supreme Court.

An independent, non-partisan, comprehensive study of certain important aspects of the media sector formulated on the basis of extensive consultation with all related organizations, prominent individuals, and civil society forums.

This Report contains several precise, progressive and in some instances, bold and innovative Recommendations for substantial reform and improvement of laws, policies, structures and practices.

An essential work of reference for all those interested in, or associated with the media in Pakistan --- and for all citizens in general because of media's vital relationship with society.

Two eloquent indicators confirm the relevance and timeliness of the Recommendations contained herein : at eight consultative Roundtables held in all four Provinces and in the Federal Capital between August and October 2013, 367 individuals associated with media , with media academia, media studies , journalism , civil society , education and public policy overwhelmingly endorsed all the Recommendations and called for their swift implementation.

In response to Questions in the National Assembly in December 2013, the Federal Minister for Information, Broadcasting and National Heritage with his own oral answers and through the written response submitted earlier by his Ministry to the Supreme Court, supported most of the Recommendations.

All that is needed now is.....ACTION FOR IMPLEMENTATION !

and Research



Alternative med

Society for

Pakistan Office No.10A, Street 31, F-8/1 Islamabad, Pakistan Tel: +92 51 2850912-6, Fax: +92 51 2850917 Website: www.fes-pakistan.org

on Media Issues