

THE UGANDA BROADCASTING CORPORATION ACT, 2005.

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An Act to provide for the establishment of the Uganda Broadcasting Corporation, its functions, powers and its administration; to provide for a successor corporate body to Radio Uganda and Uganda Television; and for connected purposes.

DATE OF ASSENT: 2nd May, 2005.

Date of commencement: 20th May, 2005.

BE IT ENACTED by Parliament as follows:

PART I—PRELIMINARY.

1. Short title

This Act may be cited as the Uganda Broadcasting Corporation Act, 2005.

2. Interpretation

In this Act, unless the context otherwise requires—

“Board” means the Board of Directors established under section 7;

“Broadcasting” means any communication or transmission of any message or signal to the public by means of electronic apparatus;

“Broadcasting Council” means the broadcasting regulatory body established under the Electronic Media Act, Cap. 104;

“common carrier” means a legal entity which is obliged, subject to its technological capacity, to provide broadcasting signal distribution to broadcasting licences upon their request on an equitable, reasonable, non-preferential non-discriminatory basis;

“Corporation” means the Uganda Broadcasting Corporation, established under the provisions of section 3;

“financial year” means the period of twelve months beginning on the 1st day of July and ending on the 30th day of June;

“Media Council” means the journalists’ regulatory body established under the Press and Journalists Act, Cap. 105;

“Minister” means the Minister responsible for information and broadcasting;

“relevant broadcasting facilities” means transmitting stations, studios, satellite uplink, stations, satellite down link stations, outside broadcasting facilities, studio to transmitter links, field measuring, reception and monitoring facilities and any other facility for broadcasting;

“signal distribution” means the process whereby the output signal of a broadcasting service is taken from the point of origin, being the point where such signal made available in its final content format, from where it is conveyed to any geographical broadcast target area by means of a telecommunications process, but excluding the use of facilities which operate on frequencies outside the broadcasting services frequency bands;

PART II—ESTABLISHMENT, FUNCTIONS AND POWERS OF THE CORPORATION.

3. Establishment of the corporation

(1) There is established a corporation to be known as the Uganda Broadcasting Corporation.

(2) The Corporation is the successor of the state media known as “Uganda Television” and “Radio Uganda”.

(3) The Corporation shall be wholly owned by the Government.

(4) The Corporation shall be a body corporate with perpetual succession and a common seal, and may sue or be sued in its corporate name and, subject to the provisions of this Act, may do or suffer all such other things as a body corporate may lawfully do or suffer.

(5) The application of the seal of the Corporation on any document shall be authenticated by the signatures of the Chairman of the Board, the Managing Director and such other Director as may be authorized.

(6) In the absence of the Chairperson, two other Directors may sign in his or her place and the person performing the functions of the Managing Director may sign in the absence of the Managing Director.

(7) The signature of the Chairperson, a Director and Managing Director on a document shall be independent of the signature of any other person who may sign such document as a witness.

(8) Every document purporting to be an instrument issued by the Corporation and sealed with the seal of the Corporation and authenticated in the manner described in subsection (5) or (6) shall be received and be deemed to be such an instrument without further proof unless the contrary is shown.

4. Objectives of the Corporation

The objectives of the Corporation shall be to—

(a) develop the broadcasting bodies into a public national broadcasting centre of excellence, for the purpose of providing electronic media and consultancy services that educate and guide the public;

(b) achieve and sustain comprehensive national radio and television coverage;

(c) achieve and sustain a common carrier status.

5. Functions of the Corporation

(1) The functions of the Corporation shall be to—

(a) provide radio and television broadcasting services and programmes that contribute to social economic development with emphasis on national unity in culture diversity;

(b) reflect the Government vision regarding the objective, composition and overall management of the broadcasting services;

(c) ensure a sustainable system of gathering, analyzing, storage and dissemination of information to the public;

(d) establish autonomy of management in rendering public broadcasting services;

(e) carry out signal distribution as a common carrier;

(f) ensure quality indigenous programming and to adapt foreign programmes to suit indigenous needs;

(g) establish systems of accountability and enhance profitability in running public broadcasting services;

(h) maintain a responsible editorial independence and set national broadcasting standards through exemplary performance;

(i) ensure protection of the public interest in rendering broadcasting services;

(j) provide electronic media and consultancy services that educate and guide the public;

(k) operate an efficient and self sustaining Corporation;

(l) achieve and sustain comprehensive national radio and television coverage through out the country;

(m) acquire and apply modern broadcasting equipment and design good organization structure and put in place responsive and skilled personnel in line with technology improvements;

(n) achieve and sustain reliable signals;

(o) ensure accurate, timely and reliable reporting of events and presentation of programmes;

(p) carryout any other activity that may be carried out by a public broadcaster.

(2) In the performance of its functions, the Corporation shall be subject to the same Laws and Regulations that apply to broadcasting operators in the private sector, and as a national broadcaster, shall be permitted to operate international services.

(3) The Corporation shall maintain a research and development programme in pursuit of its general objectives which it may operate both within the Corporation and in collaboration with relevant institutions, businesses and others as it deems fit.

6. General powers of the Corporation

The Corporation may do all such things as are calculated to facilitate or are incidental or conducive to the better carrying out of its functions under this Act and may, without prejudice to the generality of the foregoing—

(a) acquire, take on lease, purchase, hold and enjoy any property and sell, or otherwise dispose of the property, subject to the prior approval of the Minister;

(b) establish and maintain offices and install any relevant broadcasting facilities and transmitting stations in any place in Uganda for purposes of its broadcasting functions;

(c) enter into any contract, and any commercial or other arrangements which will facilitate the attainment of its objectives and profitability;

(d) borrow or otherwise raise money on such security as may be necessary, and for that purpose, charge all or any part of the property of the Corporation, subject to the prior approval of the Minister;

(e) charge for any service provided by the Corporation;

(f) make programmes or commission the making of programmes by others, particularly by the independent production sector, for the purpose of promoting its objectives;

(g) comply with the relevant regulatory supervision and with broadcasting standards and with community standards.

PART III—THE BOARD.

7. Board of Directors

(1) The governing body of the Corporation shall be a Board, which shall consist of the Managing Director and not less than five and not more than seven other Directors, one of whom shall be the Chairperson.

(2) The Directors to serve on the Board shall be appointed by the Minister from among prominent Ugandans of proven integrity by virtue of their qualifications, expertise and experience in the fields of broadcasting, technology, media law, business management, finance, and journalism.

(3) The Directors shall be appointed for a period of four years and upon such terms and conditions as may be specified in their instrument of appointment.

(4) A Director may resign his or her office by writing to the Minister, and the Minister may remove any member from office only for-

(a) inability to perform the functions of his or her office arising from infirmity of body and mind;

(b) misbehaviour or misconduct; or

(c) incompetence.

(5) Where the office of a Director becomes vacant otherwise than by expiry of term, the Minister may appoint another person to hold office in his or her place.

(6) A person appointed under the provision of subsection (5) shall cease to hold office on the date when the person in whose place he or she holds office would have ceased to hold office in accordance with the provisions of this Act.

(7) A Director ceasing to hold office after the expiry of his or her term shall be eligible for re-appointment, except in case of poor performance or infirmity of body or mind, but such appointments shall not exceed two successive terms.

8. Functions of the Board

(1) The functions of the Board shall be—

(a) To formulate and review the policy of the Corporation having regard to the Corporation's objectives set out in this Act;

(b) To approve the annual budget and action plan for the Corporation;

(c) To appoint and discipline members of staff;

(d) To determine from time to time the Corporation's structure, staff levels and terms and conditions of service;

(e) Subject to any written law, to establish the rules of procedure for:

- (i) The appointment, career development and disciplining of staff;
- (ii) The proper management of the Corporation's finances and assets;
- (iii) To perform such other functions that are incidental to the functions of the Corporation or as may be approved by the Minister in writing, on the recommendations of the Board.

(2) That the Board may, subject to such conditions and restrictions as it may impose, delegate any of its functions under sub-section (1) to a Committee of the Board or to the Managing Director.

9. Meetings of Board

(1) The Board shall meet for the discharge of its duties at least once every three months or upon the request in writing to the Chairperson by at least four Directors, and shall meet at such time and place as the Chairperson may determine.

(2) The Chairperson shall preside at all meetings of the board at which he or she is present and in his or her absence, such Director other than the Managing Director, as the Directors present at the meeting may elect, shall preside.

(3) Four Directors, including the Chairperson, shall form a quorum at every meeting of the Board.

(4) The Board may invite any person to act as consultant or adviser at any of its meetings.

(5) Questions proposed by the Board shall be determined by a simple majority of votes of the members present and voting, and in the case of an equality of votes; the person presiding at the meeting shall have a second or casting vote.

(6) Any Director who has any personal interest in any transaction of the Board or any matter before the Board shall disclose the nature of his or her interest to the Board, and shall be disqualified from taking part in the deliberations of the Board with respect to that transaction or matter; and failure to make the disclosure required by this section may constitute a sufficient reason for removal of that member from the Board.

(7) Subject to the provisions of this section, the Board may regulate its own procedure.

10. Remuneration of Directors

The Directors or any other person attending any meeting of the Board may be paid such remuneration or allowance as the Minister may determine.

11. Managing Director

(1) There shall be a Managing Director who shall be the chief executive officer of the Corporation.

(2) The Managing Director shall be appointed by the Board with the approval of the Minister from among persons of proven integrity who possess the necessary qualifications, vast broadcasting experience and competence to manage efficiently and effectively the affairs of the Corporation.

(3) The Managing Director shall hold office on contract for five years or on such terms and conditions as may be specified in his or her instrument of appointment.

(4) Subject to the provisions of this Act and the general supervision and control of the Board, the Managing Director shall be responsible for the management of the funds, property and business of the Corporation and for the administration, organization and control of the staff of the Corporation.

(5) Where the Managing Director is absent or is incapacitated or from any other cause is unable to perform the functions of his or her office, or if the post of Managing Director is vacant, the Board, may appoint an officer of the Corporation qualified in terms of subsection (2) to perform the functions of the office for the duration of the absence or incapacity or, as the case may be, until the vacancy in the office of Managing Director is filled.

(6) The Board may remove the Managing Director from office for inability to perform the functions of his or her office arising out of infirmity of body or mind or for misbehaviour or misconduct.

12. Secretary to the Board

(1) The Board shall appoint a Secretary to the Board on such terms and conditions as the Board may determine.

(2) In addition to any other functions that may be conferred upon him or her by the Managing Director, the Secretary shall have the custody of the seal of the Corporation and shall be responsible for—

(a) the taking of the minutes of the meetings of the Board; and

(b) the keeping of the records of all transactions of the Corporation.

(3) Where the Secretary is absent or incapacitated by illness or due to any other cause is unable to perform his or her functions, or where a vacancy occurs in the office of the Secretary, the Board shall appoint an employee of the Corporation to perform the functions of the Secretary for the duration of the absence or incapacity or until the vacancy in the office of the Secretary is filled.

13. Other staff

(1) There shall be such other employees as the Board may from time to time recruit; and the Board shall determine the terms and conditions of service of such employees.

(2) Nothing done by an officer or employee of the Corporation shall, if done for the purpose of carrying the provisions of this Act into effect, subject that officer to any civil liability.

PART V—FINANCIAL PROVISIONS.

14. Funds of the Corporation

(1) The funds of the Corporation shall consist of—

- (a) any grant of a capital nature from the Government;
- (b) any loan from the Government, organizations or any person;
- (c) any moneys that may become payable to the Corporation in the discharge of its functions and commercial activities;
- (d) donations that may be made to the Corporation;
- (e) television viewing licence fees and advertising revenue.

(2) All income and moneys of the Corporation shall be deposited into the bank account of the Corporation in a bank approved by the Board, and shall only be withdrawn in accordance with the manner prescribed by the Board.

15. Borrowing powers

(1) The Corporation may, with the approval of the Minister, borrow sums of money required by it for meeting any of its obligations or to perform any of its functions under this Act.

(2) An approval given under subsection (1) may be either general or limited to a particular borrowing or otherwise and may be unconditional or subject to conditions.

16. Estimates

(1) The Board shall, within a period of three months before the end of such financial year, make and submit to the Minister for his approval, estimates of the income and expenditure of the Corporation for the next ensuing year.

(2) No expenditure shall be made out of the funds of the Corporation unless the expenditure has been approved by the Minister under the estimates for the year in which the expenditure is to be made or in any other supplementary estimates.

17. Accounts

(1) The Corporation shall keep books of accounts of all its income and expenditure and proper records in relation to the accounts.

(2) Subject to such directions as the Minister may give, the Corporation shall prepare, in respect of each financial year, a statement of accounts which shall include—

(a) a balance sheet, a statement of income and statements of surplus or deficit, and

(b) such other information in respect of the financial affairs of the Corporation as the Minister may require.

18. Procurement

All procurement processes in the Corporation shall be in accordance with the provisions of the Public Procurement and Disposal of Public Assets Act.

19. Audit

(1) The accounts of the Corporation shall, in respect of each financial year, be subject to audit by the Auditor General or an auditor appointed by him or her.

(2) The Board shall ensure that within three months from the end of each financial year, a statement of accounts of the Corporation is prepared and submitted to the Auditor General for auditing.

(3) The Auditor General shall audit and deliver to the Board a copy of the audited accounts together with his or her report on those accounts not later than three months from the date of his or her receipt of the statement of accounts from the Board.

(4) The Board shall within one month from the receipt of the audited accounts and the Auditor General's report thereon, deliver copies thereof to the Minister who shall present the same to Parliament.

20. Investment of surplus funds

Funds of the Corporation as are not immediately required for use by the Corporation shall be invested in such manner as the Board may, with prior approval of the Minister, determine.

21. Corporation to operate on sound financial principles

In the performance of its functions under this Act, the Corporation shall have due regard to sound financial principles and shall conduct its business in such manner that taking one transaction with another, and taking one year with another—

(a) its revenue is sufficient for meeting all charges including interest on capital and loans properly chargeable to revenue accounts;

(b) sufficient provision is made for depreciation of assets; and

PART VI—MISCELLANEOUS.

22. Editorial policy

In the carrying out of its functions under this Act, the Board shall in particular, have as its editorial policy to—

- (a) establish effective machinery for a wide coverage of events all-over the world and Uganda in particular;
- (b) voice public opinion and criticism of a given public policy in a fair and objective manner;
- (c) uphold the integrity of the Republic of Uganda and promote harmonious relationships among its people, its neighbours and the world at large;
- (d) collect, process, analyse and propagate news and comment truthfully, honestly, and fairly without jeopardizing peace and harmony in the country;
- (e) respect and uphold the sovereignty and unity of Uganda and to come out firmly on the side of Uganda in matters affecting such sovereignty and unity without affecting the truth, which must at all times be the guiding line and governing principle of the television and radio services.
- (f) ensure that the Corporation does not broadcast any material, which is indecent, obscene or offensive to public morals religious convictions or is likely to prejudice the safety of the State or public order between sections of the population.
- (g) ensure that the Corporation's broadcasting is in line with the code of conduct prescribed by the Broadcasting Council.

23. Service of documents

Any notice or document required to be served on the Corporation may be served by leaving a copy at the registered office or by sending it by registered post to the Managing Director.

24. Annual report

The Board shall, within three months after the end of each calendar year, send to the Minister a report on the activities of the Corporation for that year and the Minister shall lay the report before Parliament.

25. Regulations

The Minister may, by statutory instrument, make Regulations generally for the better carrying out of the provisions of this Act.

PART VII—TRANSITIONAL PROVISIONS.

26. Saving of licences

Without prejudice to this Act, licences or permits granted prior to the commencement of this Act—

- (a) shall have effect as from the commencement of this Act as if granted under this Act; and
- (b) in case of licence for a specified period, shall remain in force, subject to this Act, for so much of that period as falls after the commencement of this Act.

27. Vesting of Property in Corporation

(1) The Minister may, by order published in the *Gazette*, appoint a transfer date and on that date, all property, rights and liabilities to which Uganda Television and Radio Uganda was entitled or subject to immediately before that date shall become, by virtue of this section, the property, rights and liabilities of the Corporation.

(2) On the transfer date appointed under sub-section (1), Radio Uganda and Uganda Television shall cease to exist and shall be taken to be dissolved.

28. Employees of Radio Uganda and Uganda Television

(1) All employees of Uganda Television and Radio Uganda who at the commencement of this Act are entitled to receiving retirement benefits and pension shall be paid by government all these benefits in accordance with terms and conditions in the Pensions Act.

(2) All retirement benefits except pension shall be paid before the transfer referred to in Section 27.

(3) The Corporation may, on commencement date of this Act, accept into its employment any person who immediately before this date is employed by Uganda Television and Radio Uganda and who has been given an option by Uganda Broadcasting Corporation and has opted to serve as an employee of the Corporation on terms and conditions not less favourable than those to which they are entitled to before the commencement of this Act.

29. Continuance of operations of Radio Uganda and Uganda Television

Notwithstanding the establishment of Uganda Broadcasting Corporation, Uganda Television and Radio Uganda shall continue to operate until over a time when the Minister has appointed a transfer date.