

CONCEPT PAPER FOR  
ESTABLISHMENT OF  
PAKISTAN MEDIA  
REGULATORY  
AUTHORITY(PMRA)

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## Definition of Media<sup>1</sup>.

Media is defined as communication channels through which information, entertainment, education, data, or promotional messages are disseminated. It includes every broadcasting and narrowcasting medium such as newspapers, magazines, TV, radio, billboards, digital platforms, direct mail, telephone, fax, internet and new media. Media is the plural of medium and can take a plural or singular verb, depending on the sense intended.

### Background

In recent years, media has emerged as a robust sector from its traditional role of being the fourth pillar of state. It now works as any corporate sector entity. In democratic system traditionally media functions as self-regulatory entity. However, in case of Pakistan, there is a mixed system of regulatory control. Print media is self-regulatory whereas, electronic media is regulated by Pakistan Electronic Media Regulatory Authority (PEMRA). Governments both Federal and Provincial exercise influence on print media through a myriad of laws and regulations from newspaper and periodicals registration to controlling government advertisement expenditure as an incentive structure.

Therefore, proposed creation of a converged regulatory authority shall set forth following objectives to:

- establish Pakistan as a major global center and hub for multimedia information and content services;
- promote a civil society where information-based services will provide the basis of continuing enhancements to quality of work and life;
- grow and nurture local information resources and cultural representation that facilitate the national identity and diversity;
- regulate for the long-term benefit of the industry and end users;
- promote a high level of consumer confidence in service delivery from the media industry;
- ensure an equitable provision of affordable services over ubiquitous national infrastructure;
- create a robust application environment for end users;

- facilitate the efficient allocation of resources such as skilled labour, capital, knowledge and national assets;
- promote the development of capabilities and skills within Pakistan’s convergence industries;
- ensuring that the country becomes and remains competitive in the international market;
- ensuring greater choice of service and enhanced service quality for consumers;
- ensuring ease of doing business for the potential stakeholders; and,
- enabling affordable access to ensure greater penetration of media.

**Situation Analysis:** It is pertinent to analyze the current regulatory arrangements in place, due to fast developing age of Meta data. Current regulatory environment can be described as fractured. Various government agencies at Federal, Provincial and District levels are directly or indirectly involved in media regulation. Similarly, the code of conduct of print journalism is self-regulatory; Press Council of Pakistan (APNS) regulate issues like code of conduct . Similarly, in the age of mega data and social media regulatory functions are only limited to ‘criminal acts of cyber crimes’ and FIA holds the mandate to investigate and prosecute cybercrimes. The following table provides the current regulatory regime of media:

<b>S. No.</b>	<b>Functions</b>	<b>Organization</b>
1	Authenticating declaration of publications and printing press	Deputy Commissioner Office, Provincial Government
2	Regulatory certificate, each publication has to submit a copy to show its regular publishing	Information Department, Provincial Government
3	Registration of title, to avoid conflict and assuring suitability of name, each publication is registered and given unique name	Registrar, Ministry of Information, Federal Government
4	Circulation Audit, to ascertain the circulation of publications and issue certificate	Audit Bureau of Circulation(ABC) , Ministry of Information, Federal Government
5	Receiving application of inclusion in Central Media List	Press Information Department, Federal Government

5	Approval inclusion of publications in Central Media List	Internal Publicity Wing, Ministry of Information, Federal Government
6	Fixing government advertisements rates and issuing government advertisements	Press Information Department, Federal Government
7	Entertaining complaints against published material	Press Council of Pakistan, Federal Government
8	Determining wages of journalists	Wage Board Award, Ministry of Information, Federal Government
9	Entertaining complaints of journalists regarding payments against media owners	Implementation tribunal for newspapers employees, Ministry of Information, Federal Government
10	Electronic Media	PEMRA
11	Cyber Crimes	FIA
12	Social Media	Pakistan Telecommunications Authority

The above table clearly indicates that media regulation is fragmented and a new arrangement has become necessary.

**Case for Regulatory Role of Government:** Media in democracy ideally should be self-regulatory however, there are many reasons that this self-regulatory principal should be revisited. There are many merits and demerits of self-regulation, which are described as follows:

**Merits:**

- a) **Proximity:** Self-Regulatory organizations are by definition more accessible and closer to the industry. They have more resources to access information from within the members.
- b) **Flexibility:** Self-Regulatory organizations are more flexible then government regulations as they don't have to go through tough procedural hurdles.
- c) **Compliance:** The ratio of compliance to self-regulation is much higher than compliance to government rules.
- d) **Collective Interest:** The compliance also is more robust because of the collective self-interest of the industry.
- e) **Resources:** Self-regulatory institutions are able to generate more resources through membership fees etc.

## Demerits:

- a) **Conflict of Interest:** The proximity and accessibility of information does not necessarily mean that it will be used effectively and efficiently to regulate. It also means that older and more resourceful members will dominate and use self-regulation to their advantage
- b) **Inadequate Sanctions:** Self-regulation also means that no civil or criminal sanction can be imposed through self-regulation.
- c) **Under enforcement:** It is more likely that interest group will have more hesitations for self-enforcement resulting in under enforcement of its own sanctions.
- d) **Global Competition:** Regulation is to be kept minimal so that global competitiveness can be managed. Therefore self-regulation will increasingly become minimalistic.

Therefore, considering that demerits outweigh the merits, it is more appropriate to examine the case for regulatory role of government. Following is a set of rationale for renewed and redesigned regulatory role of government:

Pakistan has rapidly increasing tele-density ; Mobile/smart phones are increasingly becoming the choice format to access all kind of media. PTA regulates cell phones but does not have any regulatory jurisdiction on the content of media reporting projected via cell phones.

- All sources of social media are stationed offshore beyond any regulatory control.
- A Conglomeration process has turned media in to corporations, doing business in all formats; print, electronic, social media etc. However there is no oversight mechanism.
- The advertisement on internet is getting highly lucrative and mostly undocumented and unregulated. It is possible that there are revenue leaks and tax evasions.
- National Plan of Action (NPA) also necessitates a firm organizational structure and resources for regulating media
- The regulatory access of government is increasingly getting marginalized due to rapidly advancing internet based technologies.
- Fragmentation of Government regulatory function of media has made it inefficient and ineffective.
- To ensure Constitutional guarantee of freedom of speech and expression as enshrined in the Constitution of Islamic Republic of Pakistan and to optimize the media's ability to act as an important constituent of the State, a facilitating/regulatory body is required which can cater to the professional and business requirements of all forms of media and their users.

It is, therefore fit and proper that a new regulatory framework may be designed to regulate media collectively in all its formats and that adequate institutional structure may be established with appropriate resource allocation.

## Pakistan Media Regulatory Authority

This will be a new statutory institution established for regulating media in the age of Meta data, digital and social media and internet based advertisement (IBA). The proposed institution may also appropriate all current regulatory functions with refinements for the sake of efficiency, transparency and effective regulatory oversight of media. In order to substantiate the rationale, an analysis of global best practices is attached at **Annexure A**.

PMRA shall be an independent statutory authority tasked with ensuring Pakistan's electronic (private as well as public), print and digital media legislation, related regulations, and numerous derived standards and codes of practice to operate effectively and efficiently, and in the public interest.

PMRA shall be a 'converged' regulator to be created to bring together the threads of the evolving media and communications, specifically in Pakistan's context the convergence of the different forms of media.

With its mission positioned across the components of the converged landscape, the PMRA shall have a strategic purpose of making media in Pakistan's public interest, as the various scenarios of convergence emerge. It will set a self-regulatory standard, expressed as: 'To be, and be recognized as, the world's best converged media regulator.'

**Proposed Media Regulatory Framework:** It is proposed that PMRA regulatory framework shall be a hybrid of Rules and Principals. Following table described the advantages and disadvantages of Rules and Principals as regulatory tools;

<b>Rules</b>	
<b>Advantages</b>	<b>Disadvantages</b>
Rules are clear leaving less room for interpretation and discretion	Rules carry the risk of manipulation
Reduces unpredictability	Discourage innovation
Clear demarcation of roles and responsibility	Complex and less user friendly
<b>Principals /Guidelines</b>	
<b>Advantages</b>	<b>Disadvantages</b>
More acceptable to the regulated sector	Wide open to interpretation
Easy and simple to understand	Implementation not possible
Room for innovation	Compliance cannot be made mandatory

**Recommendation:** In view of the above it is argued that a hybrid regulatory framework may be developed with the right mix of rules and principals/guidelines for regulating all formats of media.

**A Rules and Principals Framework for Media Regulation:** The right mix of rules and principals can be a derivative of following set of approaches:

1. Converging all regulatory functions of all formats of media under PMRA
2. Transparent and user friendly rules to be formulated
3. Guidelines for media to be developed including internet based advertisements and its revenue.
4. Preserving code of media implemented by the Supreme Court of Pakistan
5. Guidelines issued to media for code of conduct and national security issues
6. PMRA to function on corporate patterns with competitive salary structure and benefits package
7. PMRA may have the right to make its own rules and regulation approved by Board comprising of members from government agencies, Parliament, media and civil society
8. PMRA shall be given the legal authority to impose sanctions if violation occur
9. PMRA should contain a wing for forensic cyber audit
10. All laws related to media regulation, control or indirect control may be abolished
11. A new legislation to be enacted giving legal cover to PMRA and its functions
12. The regulation of media may be placed under PMRA.

### Proposed Actions

Function	Agency	Change in law required	Rule/Principal
Registration of Publication and printing press to be available online	PMRA Printing Press registration wing to issue e-registration certificate (Urdu and English)	Old law to be abolished and new Law establishing PMRA to provide legal cover including admissibility of e-registration in court of law	Legislation including Rules to be framed by a body of legal experts



Declaration of Publication and printing press	PMRA to first provide guidelines for declaration and provide platform for E-Declaration.	Old law to be abolished and new Law establishing PMRA to provide legal cover including admissibility of e-declaration in court of law	These laws require security and physical verification and clearance of publisher and printers that are no more needed in a changed media environment. Registration in the authority should be enough for authenticating declaration.
The circulation audit	A Director Audit shall perform audit of the circulation of publication	Changes will have to be made in Rules of Business	ABC exists around the world but as an independent organization under a board of stake holders. For time being, a consultative board of stake holders for the purpose may be created in the mass media division to oversee the print media rating as PEMRA is already making regulation for rating of electronic channels.
Complaints against print media	Press Council of Pakistan	Press Council Ordinance, 2002 shall be repealed and provision should be made in new proposed law	A council of stakeholders can be created in new body to supervise the complaint mechanism

Determining wages and resolution of wage disputes	Wage Board Award, and ITNE	Relevant laws would be abolished	Mechanism in the authority will be created.
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**Electronic Media Wing:** Presently, Pakistan Electronic Media Regulatory Authority is responsible for regulating the establishment and operation of all broadcast media and distribution services in Pakistan established for the purpose of international, national, provincial, district, local or special target audiences. It also regulates the distribution of foreign and local TV and radio channels in Pakistan. PEMRA was established through the PEMRA Ordinance, 2002. With the establishment of Proposed Media Regulatory Authority, PEMRA shall merge with other regulatory bodies. All the functions being performed by PEMRA shall be performed by the Electronic Media Wing of the proposed Authority.

**Telecom & Digital Media Wing:** Pakistan Telecommunication Authority was established under the Pakistan Telecommunication (Reorganization) Act, 1996 (XVII of 1996). Presently, Digital media is being regulated under Pakistan Electronic Crime Act, PECA 2016 and the regulation is only to the extent of blocking the websites. Broadly speaking, the digital media/social media does not have any regulation mechanism except the one mentioned above and that is again to the extent of crime related action.

Over the years, the Electronic, Print, Telecom and Digital Media are becoming increasingly convergent, a news broadcasted on electronic media also gets published in the newspaper and the same becomes viral on the digital/social media rapidly. Therefore, there is a need to establish a Telecom and Digital Media Wing under the proposed Media Regulatory Authority.

**Mass Media Wing:** A new wing regulating mass media and digital version of print media sector will be established. Experts will be hired to regulate this emerging global market. Cyber security experts will also be employed to ensure secure operation of the regulatory function.

**Operational Structure of PMRA:** Proposed Pakistan Media Regulatory Authority’s jurisdiction shall extend to whole of Pakistan. There shall be a Chairman of the Authority and Executive Director Electronic Media, Executive Director Mass Media, Executive Director Telecom/ Digital and Executive Director Admin and Finance shall report to the Chairman. The respective Wing shall report to its Executive Director. There shall be a complaint redressal mechanism i.e. Legal Tribunal in the proposed authority. A Board of Directors will oversee the organization. The composition of the Board may be broad based. Proposed Organogram of the PMRA is at(Annex-II).

Following are the details of the existing operational structures along with budget:

<b>Sr.No.</b>	<b>Organization</b>	<b>Total Annual Budget Current fiscal year</b>	<b>Total Strength</b>
1.	PEMRA	1.088 billon	604& Chairman
2.	Press Council of Pakistan(PCP)	48 Million	44&Chairman
3.	Pakistan Telecom Authority(PTA)	Rs. 936,332,592 ( 2017 budget of General Administration in Rupees)	A p p r . 5 0 0 & Chairman
4.	A u d i t B u r e a u o f Circulation(ABC)	19,494,000/-	Two (Officers are from Information Group)
5.	Press Registrar Office	-0- Officers being paid out of Ministry's budget	02 Information Group Officers (BS-20 & 19)
6.	Implementation Tribunal for Newspapers Employees (ITNE)	Rs.18,300,000/-	24 & Chairman

The synergizing of these organizations and their regulatory functions will help in reducing the unnecessary impediments in the free flow of information and facilitation for media persons, workers and organizations. After merger of these organizations, there shall be speedy facilitation of the media. In case of any complaint against or transgression, there shall be redressal mechanism to resolve complaints. Besides, it would also reduce the cost of operationalization of above stated functions.

## Annexure A

### **International Best Practices**

Internationally, several jurisdictions have integrated their media and communications laws into a converged legislative framework— United States of America (USA), Malaysia, India, European Union (EU) and its member states, United Kingdom (UK), Australia, Canada, Finland, Sweden, Italy and South Africa etc. are some of the examples.

It was observed that, generally, the move to converge legislative frameworks was accompanied by transformation of the institutional structures for media and communications regulation— namely, *the creation of a converged regulator*.

### **Malaysia:**

Malaysia was the first to introduce converged legislation, enacting the *Communications and Multimedia Act (CMA)* in 1998. The CMA sets out the regulatory framework for broadcasting, telecommunications, postal services and online activities in Malaysia.

The CMA is described as being based on the basic principles of transparency and clarity, more competition and less regulations, flexibility, bias towards generic rules, regulatory forbearance, emphasis on process rather than content, administrative and sector transparency and industry self-regulation.

As described by the Malaysian Communication and Multimedia Commission, the CMA contains provisions for:

- **Economic regulation**—including the promotion of competition and prohibition of anti-competitive conduct, and the development and enforcement of access codes and standards. It also includes licensing, enforcement of licence conditions for network and application providers, and ensuring compliance with rules and performance/service quality.
- **Technical regulation**—including the development and enforcement of technical codes and standards, and the administration of numbering and electronic addressing.
- **Consumer protection**—empowering consumers while at the same time ensuring adequate protection measures in areas such as dispute resolution, affordability of services and service availability.
- **Social regulation**—including content development as well as content regulation; the latter comprises the prohibition of offensive content as well as public education on content-related issues.

### **European Union—2003 electronic communications regulatory framework:**

The EU's converged legislative framework is often considered one of the best model. The EU's electronic communications regulatory framework (the ECRF) is considered to be the paradigm legislation aimed at addressing convergence and its challenges.

The EU's the ECRF came into force in July 2003 and forms the basis for all national telecommunications laws in EU member states. It sets overarching rules for the regulation of electronic communications services and networks, which member states are required to transpose

into domestic law. The UK, Finland and the other Nordic states were the first to implement changes transposing the 2003 EU regulatory framework to domestic legislation. The European Commission (EC) has reported that all EU nations have transposed the ECRF into domestic law.

While the ECRF applies to electronic communications services and networks, it does not apply to the content that travels over those services and networks. Content is regulated at the national level, with broad guidance at the EU level in the form of the Audio-Visual Media Services Directive (AVMS Directive). However, there are elements of the electronic communications regulatory framework that do impact on content.

As described by the EC, the ECRF for electronic communications comprises the following five directives, which apply to all communications infrastructures and associated services:

**The Framework Directive**—applies to all electronic communications networks and services, including fixed-line telephony, mobile and broadband communications, and cable and satellite television. It establishes the structural and procedural elements of the EU regulatory framework. These include requirements for the establishment and remit of national regulatory authorities (NRAs) and processes for NRAs to define relevant national competition markets and analyses whether there are any operators with significant market power (SMP) in that market. It also sets out rules for granting resources such as numbering.

**The Authorization Directive**—harmonizes and simplifies authorization rules and conditions throughout the EU, replacing individual licenses with a general authorization scheme.

**The Access Directive**—applies to all forms of communications networks carrying publicly available communications services and covers the relations between electronic communications providers on a wholesale basis. It establishes rights and obligations for operators and undertakings seeking interconnection and/or access to their networks. Overall, it means that member states must ensure there are no restrictions preventing negotiations from taking place between operators about the technical and commercial arrangements for access and interconnection.

**The Universal Service Directive**—concerns the relationship between electronic communications providers and end-users. It requires the provision of directory enquiry services and directories, public payphones and access for users with disabilities. The directive also

contains provisions on universal service obligations, such as quality of service, as well as for regulatory control of undertakings with significant retail market power, and a number of users' interests and rights. NRAs may impose a number of obligations on operators with SMP—these can include imposing 'must carry' obligations on the transmission of specified radio and television broadcast channels and services, where the relevant network serves as the primary means of access to the services for a large number of users.

**The Privacy and Electronic Communications Directive:** This directive concerns the processing of personal data relating to the delivery of communications services.

### **The UK—Communications Act 2003:**

Within the EU, the UK's approach is considered best practice in terms of the way it has implemented the EU regulatory framework. The UK passed its Communications Act and created OFCOM in 2003, introducing sweeping changes to the regulation of media and communications. The Communications Act requires OFCOM to balance broad and sometimes conflicting economic and cultural policy considerations. The Communications Act was intended to make the UK home to the most dynamic and competitive media and communications market in the world—this was achieved through a light touch approach to regulatory decision-making, a greater emphasis on industry self-regulation and promoting new media markets whilst safeguarding the interests of citizens and consumers. OFCOM safeguards basic public service values such as the fundamental precepts of public service broadcasting and the principle of universality in telecommunications.

The Communications Act 2003 transferred functions from five previous regulatory organizations to OFCOM. In broad terms, it:

- i. sets out OFCOM's general duties and provides for the establishment of a Content Board and a Consumer Board to advise OFCOM.
- ii. provides for the regulation of electronic communications networks and delivery infrastructures, with a number of measures transposing the ECRF into domestic law, including the introduction of a new licensing system.
- iii. provides for the regulation of broadcasting content, including reforms to accommodate the switchover to digital broadcasting and rationalize the regulation of public service broadcasting.
- iv. provides for licensing of television reception.

- v. deals with competition in the broadcast and communications markets.
- vi. contains other miscellaneous provisions.

### **The Australian Communication and Media Authority (ACMA):**

The Australian Communication and Media Authority (ACMA) established under the ACMA Act 2005 is a converged regulator which regulates the previously distinct services of communication, television, radio and newspapers-over digital platforms. Other functions of the ACMA include consumer education and awareness, community and industry research, content regulation and co-regulation, developing & implementing codes of practices & industry guidelines, framing and implementing standards, conditions and mandatory rules, monitoring compliance and enforcement etc.

### **The Federal Communication Commission (FCC):**

The Federal Communications Commission (FCC) is an independent Federal regulatory agency responsible directly to Congress. Established by the Communications Act of 1934, it is charged with regulating interstate and international communications by radio, television, wire, satellite, and cable. Its jurisdiction covers the 50 states and territories, the District of Columbia etc.

The commission is the United States' primary authority for communications law, regulation and technological innovation. In its work facing economic opportunities and challenges associated with rapidly evolving advances in global communications, the agency capitalizes on its competencies in:

- Promoting competition, innovation and investment in broadband services and facilities
- Supporting the nation's economy by ensuring an appropriate competitive framework for the unfolding of the communications revolution
- Revising media regulations so that new technologies flourish alongside diversity
- Providing leadership in strengthening the defense of the nation's communications infrastructure

The FCC is directed by five commissioners appointed by the President and confirmed by the Senate for five-year terms, except when filling an unexpired term. The President designates one commissioner to serve as chairman. As the chief executive officer of the Commission, the chairman delegates management and administrative responsibility to the Managing Director. Certain other functions are delegated to staff units and bureaus and to committees of



commissioners. The commissioners hold regular open and closed agenda meetings as well as special meetings. They also may act between meetings by "circulation," a procedure by which a document is submitted to each commissioner individually for consideration and official action.

## **6. Mass Media Wing under Proposed Pakistan Media Regulatory Authority**

The regulatory regime for newspapers and periodicals has evolved over the years in Pakistan. There are many laws and multiple organizations at local, provincial, and federal levels dealing with regulation of publications. A publisher has to run from office to office and city to city to fulfill legal requirements. Currently, Press Council of Pakistan (PCP), Press Registrar's office, Audit Bureau of Circulation (ABC) and Implementation Tribunal for Newspaper Employees (ITNE) are the bodies which are dealing with the Mass Media. Red tapism and duplication of work at various tiers of the Federal and Provincial Governments creates unnecessary hurdles. All this can be simplified.

Annexure B

**PMRA ORGANOGRAM**



