

LEGAL UPDATE

Navigating Ethiopia's Media Proclamation No. 1238/2021

Media Regulation | Freedom of Expression |
Ownership | Content | Compliance



LICENSING &
REGISTRATION



OWNERSHIP &
CONCENTRATION



CONTENT &
BROADCASTING
OBLIGATIONS



SELF-REGULATION
& COMPLIANCE



ENFORCEMENT &
LEGAL REMEDIES

*A balanced framework
for a free, responsible
and pluralistic media
landscape in Ethiopia.*

Ethiopia's Media Proclamation No. 1238/2021: An Analytical Overview of the Regulatory Framework

1. Introduction

Proclamation No. 1238/2021, the Media Proclamation, was issued by the House of Peoples' Representatives and published in the Federal Negarit Gazette on 5 April 2021. It replaced the Broadcasting Service Proclamation No. 533/2007 and the media-related provisions of the Mass Media and Access to Information Proclamation No. 590/2008, and transferred the rights and obligations of the former Ethiopian Broadcasting Authority to the newly established Ethiopian Media Authority. This analysis examines the Proclamation's architecture, its substantive rules, and the tensions inherent in its design. It does not assess the Proclamation against an ideal model of media regulation. It identifies what the law establishes, how its institutions are structured, where its rules are permissive, where they are restrictive, and where implementation depends on subordinate instruments.

2. The Regulatory Architecture

The Proclamation establishes the Ethiopian Media Authority as an autonomous federal government agency with its own legal personality, accountable to the House of Peoples' Representatives. This accountability arrangement places the regulator under legislative rather than executive oversight, and the Proclamation expressly requires the Authority to be independent and free from interference, specifically naming the government, political parties, the media sector it regulates, religious institutions, and commercial and social groups. The Authority is governed by a Management Board of nine members, appointed by the House of Peoples' Representatives on the recommendation of the Prime Minister, with two members drawn from civil society, two from the media, two from institutions relevant to the media sector, and three from relevant government organs. The Board holds the power to refuse licence renewal and to suspend or revoke licences. The Director General is nominated by the government after selection by the Board and appointed by the House of Peoples' Representatives, serves a four-year term, and may not serve more than two terms. The Director General and Deputy Directors General must be free from political party membership. The Board's composition, which reserves three seats for government organs while allocating the remainder to non-state constituencies, reflects a balancing rather than a strict separation, and the Board's role as the final decision-maker on the most severe sanctions means that its independence is of practical consequence.

3. Registration of Periodicals and Online Media: A Deregulatory Shift

One of the Proclamation's most consequential features is the distinction it draws between registration and licensing. Periodicals and online media are registered, not licensed. Any

Ethiopian citizen, privately or through a legal person, has the right to be legally recognized and to obtain a certificate of registration to establish a periodical, an online media, or a news service, and the registration system shall not impose substantive restrictions on the right to freedom of expression. The registration requirements are documentary rather than discretionary. The critical procedural feature is the deemed recognition rule. The Authority must complete registration within thirty days of a compliant application. If it fails to issue a certificate within that period, legal recognition is presumed and the applicant may commence publication. Registration may be refused within the thirty-day window only on two grounds: failure to provide the necessary information, or use of a name already taken. For periodicals whose distribution is confined to a single regional state, registration is handled by the relevant regional body, which must itself be free and independent. This is a materially different regime from the licensing model that preceded it. It shifts the regulatory posture from prior permission to notification with a default in favour of the applicant, and the deemed recognition rule removes the possibility of indefinite administrative delay operating as a de facto prohibition.

4. Broadcasting Licensing: Spectrum, Categories, and Discretion

Broadcasting remains a licensed activity. No person may provide a broadcasting service using any transmission means without a license, and using a suspended or revoked license is prohibited. The Proclamation establishes four categories of broadcasting license: public service, special public service, commercial, and community. It enumerates seventeen means of transmission, ranging from terrestrial analogue radio to internet on-demand services, and preserves the Authority's power to prescribe additional classes.

The licensing process differentiates between services that use the limited radio spectrum and those that do not. Where a license does not use the limited spectrum, the Authority must grant it within thirty days if the applicant meets the requirements and the technical and capacity criteria. Where the limited spectrum is used, the Authority must invite applicants by public notice specifying the category, the geographic area, the available spectrum, the terms and conditions, the major format obligations, the license period, the criteria for award, and the applicable fees. Radio applicants are given three months and television applicants nine months to prepare work plan documentation. Public and community broadcasting license applicants may be granted licenses at any time without competition. The Proclamation provides for public hearings where there is significant public interest, and requires the Authority to consider the public interest, the balance between national, regional, and local services, the number of independent licensees, and the demand within the proposed license area.

The license period is ten years for national television, ten years for national radio, eight years for regional radio, six years for local radio, ten years for community broadcasting, and one year for short-term community broadcasting. Renewal must be applied for not earlier than one year and not later than six months before expiry, and the Authority must

give at least three months' advance notice of an intention not to renew. The Proclamation states that the Authority shall grant renewal unless it is in the public interest to refuse. These provisions provide a degree of security of tenure, but the renewal decision remains discretionary and is subject to the Board's assessment of the licensee's compliance record.

5. Ownership and Concentration

The Proclamation contains ownership rules intended to prevent monopoly and ensure plurality. A legal person may establish one television, one radio, one newspaper, one magazine, and one online media. A person exercising effective control over a periodical or online media may acquire shares in other periodicals or online media without limit and may merge with them, which means the concentration restrictions operate asymmetrically: they constrain broadcast ownership more tightly than print and online ownership. Foreign citizens and organizations, and Ethiopian organizations in which foreign citizens own less than twenty-five percent, may own less than twenty-five percent of the shares of periodicals, online media, and broadcasting services. Civil society organizations with an ownership stake in a broadcasting service must have only Ethiopian members. A civil society organization holding a special public broadcasting license may not own additional media beyond what is permitted.

The Proclamation provides that, in the absence of proof to the contrary, a person holding twenty-five percent or more of the shares or assets of an entity, directly or indirectly, is presumed to exercise effective control. It also empowers the Authority to revise the ownership restrictions and the effective control threshold every three years after evaluating the state of the media, the capital and financial situation of the sector, ownership status, and the impact on market concentration and monopoly of ideas. This triennial review power allows the ownership rules to evolve without legislative amendment, but it also means the applicable thresholds are not fixed and market participants must monitor the Authority's periodic assessments.

6. Rights of the Media and Source Protection

The Proclamation enumerates rights of the media, including the right to gather, receive, and disseminate news and information, to express opinions and engage in critical reporting, to use modern means of communication, to record public opinion, and to bring complaints to the Federal High Court where there is interference with constitutionally guaranteed press freedom. It also recognizes the right of the media to organize in associations of their choosing. These rights apply to journalists as well.

Source protection is addressed directly. Journalists may not be forced to reveal a source that provided information on a confidential basis. The Proclamation creates a narrow judicial exception. A court may order disclosure where the information is a critical source necessary for the prosecution or defence of a serious crime or for preventing clear and imminent danger to national security, and where there is no alternative means of

obtaining the information. The exception is drafted in cumulative terms, requiring both conditions, which limits its scope. This is a meaningful protection, though its practical value depends on the willingness of courts to apply the cumulative test strictly.

7. Obligations of the Media: The Right of Reply and Correction

The Proclamation establishes a right of reply and correction for any person whose name or reputation has been affected by false or inaccurate reporting. The affected person may demand correction free of charge, in proportional terms, in the same outlet. The Proclamation sets out detailed timelines. For periodicals, correction must be posted within twenty-four hours if disseminated via the internet, within three days for daily newspapers, within fourteen days for weekly newspapers, and in the next issue for other publications. For broadcast programmers, correction or reply must be transmitted within five days. Where the editorial team is satisfied that further investigation is required, the correction or reply must be published within three weeks, and the media must notify the applicant of that decision. During election periods, the three-day limit is reduced to twenty-four hours and the fourteen-day limit to seven days for election-related matters.

The Proclamation provides that the right of reply may not be used to negate accurate reporting by providing false responses, and requires that the reply be related to the report, accurate, proportional, and lawful. Correction or reply must appear in the same section, programme, page, or segment. Where a person is denied the right of correction or reply, they may apply to a court, which must decide within ten days, or within twenty-four hours during an election period. The court may fine the responsible editor for refusing in bad faith. These provisions create a structured mechanism for reputational redress separate from defamation litigation.

8. Content Obligations and Domestic Content Quotas

The Proclamation imposes a range of content obligations on broadcasting licensees. These include compliance with the Code of Conduct, the provision of programmes that reflect the plurality of Ethiopian society, the presentation of local, regional, and national news, the application of appropriate and decent language, the verification of the legality of pre-recorded content, respect for copyright and neighbouring rights, the promotion of local culture and languages, the accurate and impartial gathering and presentation of news, the provision of balanced coverage of controversial matters, the provision of content adapted for persons with disabilities, and the facilitation of public debate on good governance. Public service broadcasters carry additional obligations, including the reflection of linguistic, ethnic, cultural, religious, gender, regional, and political diversity, comprehensive coverage of current affairs, the fair treatment of all political parties, the promotion of human rights and democratic systems, the provision of technical and financial support to local and community broadcasters, and the provision of educational programming.

Domestic content quotas are prescribed. National public and special public broadcasting licensees must allocate at least eighty percent of weekly transmission time to national programmes. Regional public and special public licensees must allocate seventy percent to regional affairs. Community broadcasters must allocate seventy percent to local affairs. Commercial broadcasters must allocate sixty percent to the affairs of the licence area. At least ten percent of annual broadcasting time or programming budget must be used for domestic content created by producers independent of broadcasters. The Proclamation defines domestic content and domestic music in detailed terms, and empowers the Authority to impose additional conditions regarding domestic content and independent production, including requirements to expend specified sums or percentages of gross revenue. These quotas are among the more interventionist features of the Proclamation, and their implementation depends heavily on the Authority's directives.

9. Election Coverage and Political Advertising

The Proclamation requires broadcasting licensees to ensure that registered political parties and private candidates receive equitable coverage during election periods. News, analysis, and discussion programmes must provide balanced and comprehensive coverage, proportionally including the views of political parties and voters. Licensees must allocate free airtime to political parties and private candidates to publicise their objectives and programmes. The Authority, in collaboration with the National Electoral Board of Ethiopia, is required to allot specific amounts of free airtime according to a transparent and equitable pre-determined formula, taking into account the number of seats held in the House of Peoples' Representatives and regional councils, the number of candidates presented, the number of female or disabled candidates, and an equal allotment for all participating parties. The obligation on commercial and special public broadcasters to allocate free airtime is stated to be lower than that of public service broadcasters under any circumstances. Licensees are not obliged to broadcast political advertisements, but if they choose to do so, they may not discriminate between parties, and the fee for election campaign advertising may not exceed the fee for equivalent commercial advertising. The Proclamation places responsibility for the content of free airtime statements on the political party or candidate that provided them.

10. Administrative Measures, Fines, and Sanctions

The Proclamation establishes a graduated system of administrative measures. The Authority may issue a written warning, impose administrative fines, suspend or terminate a programme, or suspend or revoke a licence. The Proclamation distinguishes between measures the Authority may take and measures reserved to the Board. Decisions on written warnings, significant fines, and the suspension or termination of a programme may be taken by the Authority. Decisions on refusal of licence renewal, suspension of licence, and revocation of licence are reserved to the Board. Where the Board intends to refuse renewal, suspend, or revoke a licence, it must give the licensee the opportunity to present

views in person, submit a written statement of objections, and request a public hearing. A person aggrieved by a decision of the Authority may submit a grievance to the Board within fourteen working days, and the Board must decide within thirty working days. A party aggrieved by a decision of the Board may petition the Federal High Court within thirty working days, and the Federal High Court may review questions of fact and law. The court must decide within thirty days. An appeal to the appellate court must be lodged within thirty days, and the appellate court must decide within thirty days.

The Proclamation prescribes specific fines for specific violations. Violations of the provisions on non-transferability of licence, provision of service without licence, and amendment of licence attract fines of up to 150,000 Birr. Violations of the registration provisions attract fines of up to 50,000 Birr, unless the failure to register results from the Authority's own failure. Violations of the provisions on information on periodicals and broadcast transmissions attract fines of up to 15,000 Birr. Violations of the content obligations in the sections dealing with general obligations and the protection of minors attract fines of up to 100,000 Birr. Violations of the ownership provisions attract fines of up to 200,000 Birr. The Proclamation requires that the amount of the fine take into account the seriousness of the breach, the licensee's record, any financial benefit gained, and the overall financial state of the licensee, and states that fines should be proportionate and should not seriously endanger the broadcaster's viability. This proportionality requirement is a meaningful constraint on the exercise of the fining power.

11. Defamation, Criminal Liability, and Limitation Periods

One of the Proclamation's most significant reforms is the decriminalisation of defamation committed through the media. The Proclamation provides that when an act of defamation is committed through the media, it results in civil liability, not criminal liability. Moral compensation for defamation by the media may not exceed 300,000 Birr. In determining the amount, the court must consider the profit conditions of the media, the seriousness of the damage, and the effect the compensation would have on the viability of the media. The Proclamation also provides defences. Truth of the content with no intent to harm, genuine belief in the truth of statements after following acceptable verification mechanisms, and statements made in the public interest do not give rise to civil liability. It further provides that statements by the President, the Prime Minister, members of the House of Peoples' Representatives, members of the Council of Ministers, members of Regional Councils and executive organs, statements made on speeches or decisions by federal or regional appointees and representatives in their official capacity, statements by judges, attorneys, defence counsel, prosecutors, legal counsel, and witnesses in court proceedings, and statements made by persons under a legal obligation do not give rise to civil liability. The Proclamation qualifies this by stating that these special conditions may not be used to attack the personality of individuals without any public interest.

The Proclamation also establishes limitation periods for criminal proceedings. No criminal proceeding for an offence committed through a periodical may be instituted after one year from the date the offending item was published. For broadcasting, no proceeding may be instituted if investigation is not started within six months from the date of broadcast. For online media, no proceeding may be instituted if investigation is not started within three months from the last date the offending programme was available online. These periods are short and serve to limit the temporal exposure of media outlets to criminal process.

12. Impoundment and Injunction Powers

The Proclamation preserves a power of impoundment and injunction, but subjects it to judicial control. Where the Federal or Regional public prosecutor has sufficient reason to believe that a periodical or broadcasting service about to be disseminated contains illegal matter that would lead to clear and imminent grave danger to national security which could not otherwise be averted through subsequent sanctions, the prosecutor may apply to the Federal High Court for an order to impound the periodical or to forbid transmission. In cases of extreme emergency, the Attorney General may order impoundment or forbid transmission without a prior court order. In that case, the Attorney General must notify the Federal High Court within forty-eight hours, and the court must determine within twenty-four hours whether the order should be upheld. If the court finds the content lawful and not likely to cause damage, it must revoke the order. If it finds the content unlawful and likely to cause serious danger, it must uphold the measure and order criminal proceedings within fifteen days; failure by the Attorney General to do so results in revocation of the order. The prosecutor is legally liable for malicious exercise of these powers, and administrative sanctions and fines may be imposed on individuals within government institutions for malicious exercise. The Proclamation also provides that the court may order impoundment and bar further dissemination once criminal proceedings have been instituted. The impoundment order must specify the offending passage or passages, the volume, part, issue, or installment, and it relates only to copies intended for dissemination.

This is a sensitive area. The Proclamation's formal structure imposes judicial oversight and temporal limits, and it creates a liability mechanism for abuse. Whether these safeguards operate effectively depends on the speed and independence of the Federal High Court and on the willingness of prosecutors to invoke the power only in the narrow circumstances the Proclamation describes. The threshold of clear and imminent grave danger to national security is high on its face, but it is also elastic in application.

13. Self-Regulation and the Role of the Code of Conduct

The Proclamation places considerable emphasis on media self-regulation. It defines media self-regulation as a voluntary peer review and learning process through which media institutions set editorial guidelines, professional ethics, and codes of conduct, enhance professional expertise, and create mechanisms to address complaints and

ensure public accountability. The Authority is required to issue a detailed Code of Conduct that directs programmes disseminated through broadcasting and online media, and it must ensure that self-regulation structures are given the opportunity to comment on the Code and participate in its implementation. The Authority must also provide support to strengthen the organisational structure and operation of self-regulation mechanisms. The Board may, after conducting an evaluation every three years, allow self-regulation structures to enforce their Code of Conduct on certain issues as an alternative to the Authority's own processes, with the Board retaining appellate jurisdiction. This design contemplates a co-regulatory model in which the state sets the framework and the industry enforces it, with the state retaining a residual role. The effectiveness of this model depends on the capacity and credibility of the self-regulation structures, which the Proclamation itself acknowledges require strengthening.

14. Analytical Observations

Several observations follow from the structure of the Proclamation. First, the registration regime for periodicals and online media is genuinely deregulatory, and the deemed recognition rule is an important procedural safeguard against administrative obstruction. Second, the licensing regime for broadcasting remains discretionary, and the concentration of decision-making power in the Authority and the Board, combined with the Board's reserved authority over renewal, suspension, and revocation, means that broadcasters operate under a regime of conditional tenure rather than secure rights. Third, the Proclamation decriminalises media defamation and caps civil compensation, which is a significant liberalising step, but it retains criminal liability for other media offences and preserves the impoundment and injunction power, which means the overall liability environment is mixed. Fourth, the content obligations and domestic content quotas are extensive and interventionist, and their practical effect depends on directives that the Authority is required to issue. Fifth, the ownership rules are asymmetric, constraining broadcast concentration more tightly than print and online concentration, and the triennial review power introduces an element of regulatory flexibility that also introduces uncertainty. Sixth, the Proclamation's independence provisions are formal and depend on appointments, budget, and political practice for their realisation.

15. Implementation and the Role of Subordinate Instruments

The Proclamation is framework legislation, and many of its most consequential provisions are to be given effect through regulations enacted by the House of Peoples' Representatives and directives issued by the Board or the Authority. The Code of Conduct, the detailed criteria for evaluating licence applicants, the technical standards for broadcasting services, the rules on domestic content and independent production, the procedures for electronic licence applications, the guidelines on political party airtime allocation, and the directives on self-regulation are all contemplated but not fully specified in the Proclamation itself. The practical operation of the regime therefore depends on the content and quality of these subordinate instruments, on the

transparency with which they are made, and on the consistency with which they are applied. The Proclamation requires the Authority to publish all directives and make them accessible to the public, and it requires stakeholder consultation and public hearings on draft directives. These procedural requirements are important, and their observance is a useful indicator of the Authority's regulatory posture.

16. Conclusion

Proclamation No. 1238/2021 is a complex instrument that cannot be characterised as either uniformly liberal or uniformly restrictive. It contains meaningful deregulatory features in registration and defamation, and it contains substantial content controls, licensing discretion, and administrative powers. Its institutional design places formal independence in the Authority and accountability in the House of Peoples' Representatives, but the effectiveness of that design depends on practice. Its content obligations are extensive, and its domestic content quotas are among the more interventionist elements of Ethiopian media law. Its defamation provisions represent a significant departure from the prior criminal liability regime. For media organisations, investors, and practitioners, the Proclamation requires attention to registration and licensing conditions, ownership thresholds, content and quota obligations, the right of reply, election coverage rules, and the graduated system of administrative measures. For policymakers and commentators, the Proclamation raises questions about the balance between regulatory oversight and editorial independence, the capacity of the Authority to administer a broad mandate, the credibility of self-regulation, and the extent to which the framework's formal protections are realised in practice. Those questions are not resolved by the text alone. They are resolved by implementation.

Disclaimer

This analysis is provided for general informational purposes only and does not constitute legal advice. It is based on the Media Proclamation No. 1238/2021 as published in the Federal Negarit Gazette. The application of the Proclamation may depend on the specific circumstances of a media organization, licensee, or transaction, and on subordinate regulations and directives issued under it. Professional legal advice should be sought before relying on this analysis or taking any action.

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