

Amendment to the National Broadcasting Rules 2052 (1995 AD)

Introduction

On March 3, 2022, the Government of Nepal (“GON”), exercising its powers under Section 21 of the National Broadcasting Act, 2049 (1993 AD) amended the National Broadcasting Rules 2052 (1995 AD) (“NBR”) through National Broadcasting (Eleventh Amendment) Rules, 2078 (2022 AD) (“Amendment”). The Amendment came into force immediately.

The GON, through the Amendment, aims to regulate the broadcast of Over-the-Top (“OTT”), Video-on-Demand (“VOD”) and Online Television (“TV”) platforms in Nepal. The Ministry of Information and Communications, Government of Nepal (“Ministry”) is the authorized regulatory agency for this matter.

Key provisions introduced by the Amendment are summarized below:

Definitions

The key definitions of the Amendment include:

- **OTT:** Service provided through Internet or other platforms without the use of Direct to Home (“DTH”) cable or satellite television. The term also includes media streaming service through Internet.
- **VOD:** Services other than television program provided on demand of consumers within the network by broadcasting entities licensed by the Ministry.
- **Online TV:** Regularly produced audio-visual program broadcasted through Internet.

Franchising License and Approval

A license must be obtained from the Ministry in order to broadcast, through locally licensed

channels, any foreign program or by obtaining broadcasting rights (franchising) for foreign programs in Nepal.

Broadcasters broadcasting foreign program prior to the Amendment must submit an application to the Ministry within three months from the date of commencement of the Amendment, i.e., June 3, 2022 to obtain a license.

Requirements for Licensed OTT Operators

- Licensed OTT operators with Nepal based members/customers or those generating fees within Nepal are required to set up a cache server in Nepal.
- Licensed OTT operators must register customers in a Nepal based server prior to providing access to the contents, and maintain information of customers.
- Records of all transactions must be securely stored in a Customer Management System Server.

Added Conditions for Licensed Broadcasters

Headend Sharing

The Amendment prohibits headend sharing. Headend sharing is permitted for a period of maximum six months upon notification to the Ministry in exceptional circumstance when service providers are unable to provide their service due to natural or man-made disasters.

Technical Audit

The Amendment requires licensed operators to provide monthly details and Annual Technical Audit Report of Conditional Access System (“CAS”)/ Multimedia Messaging Service (“MMS”) to the Ministry.

Publication of User Agreement

OTT operators are mandated to publish User Agreement to use or access, their rules, privacy policy, and identification of broadcasters' computer source.

Approval requirements

- Online TV authorized to broadcast programs through Internet are required to obtain approval from the Ministry.
- Licensees authorized by provincial government must also seek approval from the Ministry for nationwide broadcast.

Grievance Redressal

- Details of a focal person must be maintained in the website to hear grievances.
- Grievances must be addressed within 30 days from the date of receipt.

Maintenance of Records

- Records of broadcasted materials shall be maintained for at least 60 days.
- Records must be to the Ministry or other government units during investigation.

Classification of Programs

OTT operators are mandated to include key classification according to the age of consumers:

- “U” Rating – Appropriate for all age groups including children.
- “R” Rating – Appropriate for age group between 10-18.
- “A” Rating – Appropriate for age group above 18.

Fees

Particulars	Fee (NPR)
Application fee for obtaining approval for foreign programs or franchise	1,000
License fee for obtaining approval for foreign programs or franchise	100,000
License fee for OTT Operation	10,000,000
License fee VOD Operation	200,000

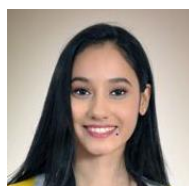
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