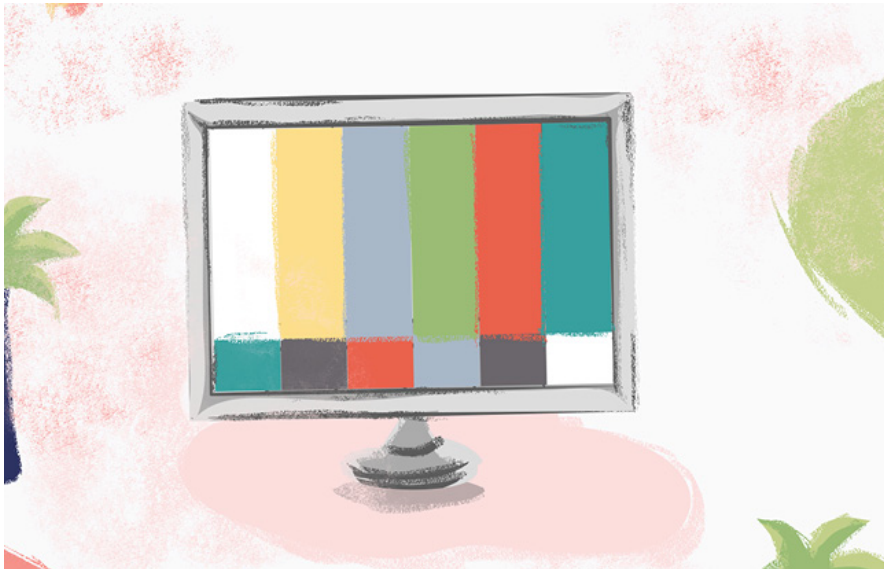


The Sun Always Shines on TV: Media licensing and content regulation in Saudi Arabia

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As part of Vision 2030, Saudi Arabia is keen to develop the audio-visual media industry in the Kingdom. A key part of this has been the development of the legal framework upon which the audio-visual media sector is based. The Audiovisual Media Law (Royal Decree No.M/33 of 25/3/1439 (13 December 2017); Council of Ministers' Resolution No.170 of 24/3/1439 (12 December 2017), and its Regulations, are a cornerstone of the development of the industry. The Law aims at creating a suitable investment environment, and ensuring that associated media content conforms to Saudi legal and cultural considerations. In this article we outline some of the key aspects addressed in the Audiovisual Media Law and its Regulations, along with some implications for both local and foreign businesses operating in this space.

Media Licensing

The Audiovisual Media Law requires those wishing to engage in broadcasting and other audio-visual media activity in the Kingdom to obtain an appropriate licence, as further detailed in the Law and Regulations, and in the associated licence manual. Audio-visual media activities include audio-visual services through satellite broadcast, cable TV, digital transmission, land transmission, TV transmission, radio, cinema, VOD, IPTV, or OTT, whether free or paid, subscription-based, charged per transaction, or based on commercials. Significantly, audio-visual media activities also includes video games.

The types of licences contemplated in the licence manual that accompanies the Regulations include:

- Media content production, and operating media production studios
- Advertising agencies
- Operating cinemas
- Satellite distribution
- Terrestrial transmission
- Satellite uplink stations

- Linear and non-linear (e.g. VOD/OTT) broadcasting
- Radio broadcasting
- IPTV and cable television
- Media audience measurement
- Importation, distribution, sale and lease of:
 - Audiovisual media content, as well as cinematic movies, videos and TV shows, and receivers and accessories;
 - Cinematic movies, videos and TV shows; and
 - Receivers and accessories.

Along with paying the applicable official fees, a basic requirement on all licensees is to comply with the requirements specified in the subject licence. Generally, and depending on the type of licence granted, licensees also need to meet requirements relating to development of the media industry, technical aspects, and cooperation with the relevant authorities. In summary:

- Licensees need to follow GCAM’s policies with regard to prioritising the use of Saudi resources, including human resources; and otherwise participate in capacity building in respect of local content production capabilities.
- Where applicable, licensees need to comply with technical specifications for equipment relating to transmission and reception of media content, and with the allocation of frequencies and associated technical procedures and standards for frequency use.
- Licensees also need to cooperate with the authorities (typically the General Commission for Audiovisual Media, or “GCAM”). These requirements include a general obligation to provide GCAM with any information it requests in respect of broadcasting, production or distribution of media content. Licensees must maintain records of all media content transmitted for 90 days, and provide such content to GCAM upon request. There is also a general requirement to comply with decisions issued by GCAM.

GCAM is primarily responsible for licensing, although approval from other authorities (including final approval by the Council of Ministers) may also be required, depending on the type of licence. The Regulations set-out the relevant controls and procedures for the issuance, renewal, amendment, suspension and revocation of licences, and there are restrictions on the transfer of licences. GCAM’s board is responsible for setting out the rules for determining licensing fees.

Saudi Broadcasting Corporation’s television channels and radio stations are deemed to have been licensed on the day on which the Law came into force. Such channels and stations are subject to, and required to comply with, the Laws and Regulations.

Interestingly, the Regulations contemplate the licensing of foreign streaming platforms available in the Kingdom. Such entities are required to comply with local foreign investment and commercial registration requirements, and to set-up a local presence (such as a branch or representative office), as part of the requirements for seeking a licence from GCAM. It will be interesting to see how this pans-out in practice.

Media Content Regulation

The Law and the Regulations require those who engage in audio-visual media activities to comply with local content standards. Some of the requirements specified are somewhat vague (e.g. ‘comply with the Kingdom’s media policy’, and ‘show respect for the inviolability of the human person’), whereas others are somewhat more specific. The Law includes the following requirements and prohibitions, which are further detailed in the Regulations:

- To show reverence, and not show contempt, scorn or vituperation, for Allah, the Holy Quran, the Prophets, and the wives and companions of the Prophet (PBUH); and not compromise the pillars of Islamic Shari’ah.

- To show respect for the King and the Crown Prince; to avoid compromising public order, national security and the public interest; and to refrain from addressing matters that may stir up strife, division and hatred among citizens, instigate violence, or compromise security.
- To show respect for freedom of expression and opinion.
- To refrain from addressing matters that may compromise international relations with other Arab, Islamic or friendly nations, and matters that may incite terrorism and threaten peace.
- To refrain from transmitting content prejudicial to public morality, or that shows nudity, indecent clothing, provokes sexual instincts, or uses vulgar language.
- To maintain a balance between advertising content and non-advertising content, so as not to adversely affect the quality of the non-advertising content.
- To refrain from broadcasting commercials involving pharmaceuticals, food supplements, or investment materials, that have not been approved by the competent authorities in the Kingdom; and to refrain from broadcasting content that promotes drugs, psychotropic substances, alcohol or tobacco.
- To refrain from transmitting content containing false information (i.e. information that is not based on well-proven, documented facts), or that may violate privacy of the individual.
- To respect intellectual property rights.

There is specific mention of the requirement for women presenters working in television stations licensed in the Kingdom to be decently dressed, by conforming to Islamic dress code and common norms.

In some circumstances, licensed broadcasters may be required to provide GCAM with media content that has not yet been made available in order for GCAM to review it and provide consent to its display.

In the case of offending media content that is broadcast by satellite and accessible in Saudi Arabia, GCAM is empowered to 'take all necessary measures'. The Regulations contemplate GCAM notifying the foreign satellite broadcaster via diplomatic channels, and otherwise taking further legal action where appropriate.

Competition and Consumer Protection

The Law contemplates GCAM ensuring the protection of consumers, and the Regulation goes into more detail in this regard. GCAM is empowered to settle disputes between licensees and consumers, as well as disputes between licensees (except where one of the licensees is a telecommunications licensee; in which case CITC, the local telecoms regulator, will be responsible).

Interestingly, the Regulations prohibit the encryption of broadcasted content, intended for the Saudi market, and relating to 'occasions of a national nature'. 'Occasions of a national nature' include the likes of political, historical, cultural, social and sporting events that have a national nature, as further determined by GCAM.

In terms of anti-competitive behaviour, and subject to the local Competition Law, licensees are prohibited from doing anything that adversely affects the media market. Again, specific detail, including information on mergers in the media sector, is set out in the Regulations.

Generally

The Law and Regulations are wide-ranging, and contain a significant amount of detail not mentioned in this article. Examples include rules relating to registration of media industry professionals, a multi-level mechanism for considering and addressing alleged violations of the Law and Regulations, and – of course – the penalties for non-compliance. Current and prospective industry participants need to familiarise themselves with the requirements relevant to their specific media industry sub-sector so as to ensure compliance and reduce risk.

Al Tamimi & Company's [Technology, Media & Telecommunication team](#) regularly advises on media licensing and content regulatory issues in Saudi Arabia and across the Middle East. For further information please contact [Nick O'Connell](mailto:n.oconnell@tamimi.com) (n.oconnell@tamimi.com).