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Seminar on PEMRA Amendment Bill, 2004: Stakeholder Perspective

Jointly Organized By

**Parliamentarians Commission for Human Rights (PCHR)
&
INTERNEWS-USAID**

Held on Thursday June 02, 2005 at Marriott Hotel, Islamabad

Chief Guest: Mr. Riaz Fatyana, MNA & Chairman PCHR

Presentation by: Matiullah Jan, Internews Pakistan Media Law Advisor

Moderated by: Shafique Choudhry, Chief Coordinator, PCHR

Opinions on PEMRA Amendment Bill expressed by:

Senator, Farhatullah Babar

Senator, Sardar Mohammad Latif Khan Khusa

Senator, Mr Mohim Khan Balouch

Senator, Mohammed Abbas Kumaili

Mr CR Shamsi – PFUJ

Mr Najeeb Ahmed – Power 99FM



List of Participants

1. Mr. Riaz Fatyana- MNA & Chairman PCHR
2. Tanvir Khalid- Senator
3. M. Aslam Buledi- Senator
4. Rahmat Ullah Kakar- Senator
5. Aitzaz Ahsan- MNA
6. Mohammed Abbas Kumaili- Senator
7. Farhatullah Babar- Senator
8. Sajjad Bolchari- Senator
9. Sardar Mohammad Latif Khan- Khusa Senator
10. Mohim Khan Balouch- Senator
11. Prof. M. Ibrahim Khan- Senator
12. Brig. Shakal Ahmed- ® Head CTV & Policy Wing, PEMRA
13. Asif Khan- AGM (Legal) PEMRA
14. Kashif Siddique- Legislation Officer, PCHR
15. Qaiser Munir- Senior Research Officer, PCHR
16. Mian Jalil Ahmed- PML (N)
17. Matiullah Jan- Internews Media Law Advisor
18. Adnan Rehmat- Internews Pakistan Country Director
19. Mohammad Aftab Alam Internews Media Law Advisor
20. Fauzia Shahid- Chief Reporter, Daily Pakistan
21. C.R. Shamsi- Daily Ausaf & PFUJ
21. Najib Ahmed- Director, Power 99 FM
22. Tassawar Zahoor- Lawyer
23. Rashid Malik- APP
24. Nasir Aslam Raja- Khabrain, Senior reporter
25. Dr Z U Khan- UN
26. Sajjad Ahmad- IUCN
27. Basit Nadeem- Reporter, Vectone TV
28. Asif Awshid- Correspondent, GEO TV
29. Nadeem Khan- Cameraman GEO TV
30. Shaukat Piracha- Senior Reporter, Aaj TV
31. Firoos Nizami- Cameraman Aaj TV
32. Laiq-ur-Rehman- Reporter ARY-TV
33. M. Asif- Cameraman ARY TV
34. E. Philip- Photographer P-I-D
35. Nawalzada Khurshid- Editor API
36. Amir Wasim- Daily Dawn
37. Ishaque- Dawn Photographer
38. Kashif Riaz- APP
39. N.Z Khurshed- API
40. CL Ahseen- Columnist APA
41. Noureen Nazlee- Reporter PPI
42. G. Sheikh- Photographer Online Agency
43. M. Tahir Makhdoom- Bureau Chief, Daily Commercial News
44. Zafar Aslam Raja- Photographer, Daily Observer

45. Afzaal Nadeem- Staff Reporter, IWP
46. Shahbaz Ishaq- Media Manager, UNI Plus
47. Kamsar Naz- Reporter, Business Recorder
48. Javed Soomro- Reporter, Awami Awaz
49. Nasir Abbasi- Reporter, Daily Azkaar
50. Azhar Abiji- Photographer
51. Aamir Yasin Staff- Reporter, Online
52. Kamran Ahmed- MAS Tech
53. Faisal Khan- Daily Subh
54. Farah Naz Dy- Editor, Sunday Times
55. M. Shakil- PBC
56. Peer Mohammed- Staff Reporter, Business Recorder
57. Nasir Abbasi- Sana News
58. Rasheed Ahmed- Special Reporter, Daily Khohestan
59. Maqsood Ahmed- Special Reporter, Daily Surbarah
60. Tajamul Hussian Shah- Assistant Research Officer, PCHR



Seminar Report

Parliamentarians Commission for Human Rights (PCHR) in collaboration with Internews Pakistan, a media assistance organization, has arranged a seminar on PEMRA Regulatory Authority Amendment Bill on June 2nd, 2005 at Marriott Hotel, Islamabad.

The rationale of this seminar was to sensitize the honorable members of the parliament on Pakistan Electronic Media Regulatory Authority (PEMRA) Amendment bill, 2004, which has recently been passed by the National Assembly of Pakistan. PCHR is of the considered view that the honorable members of the parliament first need to understand and then carefully analyze the impact of the bill on country's media scene especially within the perspective of the right to freedom of expression as guaranteed under article 19 of the constitution of Pakistan. Representative media bodies and some civil society organizations have already expressed their apprehensions on the content of the amendment bill and demanded an opportunity of being heard by the respective standing committees of the two houses.

In line with the mandate of protecting and preserving fundamental rights of the citizens, PCHR and Internews Pakistan, have invited representatives from media bodies and civil society organizations to attend the briefing and share their views. Officials from PEMRA also participated to give their perspective on the issue.

During the seminar, participants termed the Pakistan Electronic Media Regulatory Authority (PEMRA) Amendment Bill a tool in the hands of the government to further curb media freedom and called for changes in the proposed law.

The speakers, including legislators and representatives of media and civil society, asserted that proposed changes by the government would curtail the media freedom drastically in the country as well as vesting PEMRA authorities with absolute powers. The participants were of the view that press freedom in Pakistan had been threatened after passage of the PEMRA bill by the National Assembly.

They maintained that the bill had now been transmitted to the Senate and it was likely to be referred to the Senate standing committee on cabinet, as PEMRA had now been placed under the cabinet division. Participants demanded that the Senate's Standing Committee should invite all the stakeholders, including broadcasters, journalists, civil society and media experts, to seek their views before making any decision on the bill.

They lamented that the National Assembly Standing Committee on Information and Broadcasting and PEMRA did not invite stakeholders for their views before approving the bill.

It was also argued that the proposed bill sought to reduce the provinces of their legally vested role in the issuance, suspension or revocation of private broadcast licensing. The words "shall invite" comments from provinces is being proposed to be amended as "may invite" comments from provinces, it was observed.

Participants also noted that besides, the proposed amendments empowered local police to arrest without warrant any radio or TV broadcaster either on instructions from authority official or on their own after accusing him of "repeat violation" of any provisions of the PEMRA Ordinance, they added.

They suggested that media bodies, civil society organizations and specially those persons holding Pride of Performance in media-related fields be given PEMRA board membership and there should be an in-house election of the chairman. It was suggested that the name PEMRA authority should be replaced with PEMRA Commission.

Proposed amendments in PEMRA bill did not distinguish between professional broadcasters and cable operators and suggested equally harsh treatment for both in the shape of fines up to Rs10 million and imprisonment up to three years.

Asif Khan, representative of PEMRA authority defended the government decision to make amendments in the existing law for more effectiveness in the work of the authority.

He particularly defended the amendments giving powers to police by maintaining that the cable operators were not paying heed to PEMRA directives. However, Senator Sardar Latif Khosa said that police had been dragged into implementation of PEMRA laws perhaps because of the fact that the authority's present chairman was a former police officer.

Senator Farhatullah Babar said the opposition would not allow the treasury benches to bulldoze the bill in the Senate. He also suggested that the bill should be referred to the Standing Committee on Information instead of the Cabinet.

Adviser to Internews on law, media and policy Matiuallah Jan gave a detailed presentation on the bill as well.

PROPOSED AMENDMENTS IN PEMRA ORDINANCE

The proposed bill should be circulated among the public for eliciting opinion of various stakeholders, particularly the proprietors of TV channels, cable operators and radio stations.

Another proposal seeks to reduce the number of PEMRA members to eight and removal of CBR chairman and interior secretary as the two ex-officio members.

The clause dealing with PEMRA's powers to shutdown a broadcasting house for airing programmes that contained pornography, obscenity or other material offensive to commonly accepted standards of decency is objectionable. It was argued that the words "material offensive to commonly accepted standards of decency" was too vague, generalized and vested the authority with vast powers to close a broadcast station on whimsical grounds.

While PEMRA may have powers to take action for pornography and obscenity it should have no blanket powers to close down a station for airing "material offensive to commonly accepted standards of decency".

The bill may be referred to the Senate Standing Committee on cabinet for discussion and where media bodies may be invited to give their views on the bill.

Section 33A and 34A may be modified so that the broadcasters may be treated differently from cable operators. Any delinquent broadcasters may be required to pay a fine only and that too after being granted a proper right of hearing. For repeat violation a repeat fine (increased amount) may be imposed on broadcasters. For them police should not be called in until a license has been cancelled after a due process of hearing and law, under extreme circumstances. Section 33A & 34A be amended to exclude broadcasters from its day-to-day implications.

Similarly decried is the proposed abolition of a 3-member committee, which included a retired judge (in chair), and a representative each from PEMRA and the licensee. Under Section 30(b) the committee was empowered only to render its opinion on a

controversy, before the authority could take an action against the licensee.

The committee-relating proviso in Section 30 (b) may be restored, because committee is just an opinion giving body and not a decision-making authority.

Amendment in Section 6 may be modified to include broadcasters and media stakeholders on PEMRA Board. The President's Pride of Performance holders, in the fields identified in PEMRA ordinance, may be made members and chairman of PEMRA board.

The proposed bill seeks to reduce the provinces of their presently legally vested role in the issuance, suspension or revocation of private broadcast licensing. PEMRA's present obligation to consult provinces in the whole process (in case of a provincial objection only) is being proposed to be turned into an option for the authority. The words "shall invite" comments from provinces is being proposed to be amended as "may invite" comments from provinces besides reducing their say to the issuance of license only as against the presently legally vested right to have a say in suspension and revocation of licenses also. [Section 21 being amended]

New amendment proposes in-house monitoring (censorship) committees to be constituted by the private radio and TV licensees, with the approval of the authority. [Insertion of section 20(f)]

PEMRA membership is being increased to 12 from 9 to outnumber much-proclaimed current private sector majority of five members (even though nominated by government). Proposed addition of chairman CBR as ex-officio member will increase ex-officio members to four. Altogether with fourth ex-officio member being added, a government appointed executive member, two more government appointed members, besides the chairman, the government will be in complete control by majority of 8 to 5 so called private sector members, who too are, in fact, government appointed. [Section 6 being amended] No broadcaster/media rep is on the board.

PEMRA discretionary powers to exempt anyone from any provisions of PEMRA law is being proposed to be exempted from conditions of making rules in this regard and respecting constitutional requirements of principles of equality and equity. Such conditions are being proposed to be deleted from the present laws. [Portion of sec 19 being deleted] Similarly a whole paragraph referring to supporting freedom of expression in licensing process is also being proposed to be deleted. [Sec 21(3) being deleted]

Content restrictions toughened with undefined concepts of ideology of Pakistan and national security breach of which would lead to prohibition of programmes. [Sec 27(1)(a) being amended]

Media on Internet has never been covered neither by previous legislation nor by the current one.

Section (4) gives right to PEMRA to issue "determination". However, without

defining any mechanism for implementation and action if not being implemented.

Existing and proposed legislation do not envisage the representation from parliament in Advisory Council.

Section (7) elaborates the word "misconduct" in a very vague manner and distinguishes from other government employees. It should be equal for all government officials.

PEMRA being a regulatory authority should invest only in research and development of electronic media. However, Section (14) allows authority to invest anywhere.

Complaint Cells will be established at provincial headquarters. This will create trouble for people living in remote and far-off areas to approach PEMRA provincial offices. This will also be problematic for cable TV operators and local channels. Therefore, PEMRA should establish offices at each district level.

New legislation includes words "abuse of media power" without describing the term "media power" and its "abuse."



Chief Guest Remarks:

Chief Guest Mr. Riaz Fatyana, Chairman PCHR lauded the efforts of INTERNEWS-PAKISTAN to arrange this useful activity. He elaborated that the aim of this activity is to develop a better understanding among the legislators on the amendments that will reshape the national media scene in Pakistan. The National Assembly of Pakistan has already passed the PEMRA Amendment bill, 2005 and the Senate will now take the same up. The bill mainly provides for cross media ownership to enable newspaper owners to launch private TV channels. However there are some provisions of the bill

that have attracted attention of the press freedom fighters.

By and large, he appreciated the efforts of the current government in developing a media friendly regime that guarantees citizens fundamental rights to access information and exercise freedom of expression.

Mr. Fatyana expressed his satisfaction over the government's efforts and its willingness to accommodate the viewpoints of all media stakeholders on various issues, the PEMRA amendment bill being one of them. The success of these efforts will depend upon the extent to which all of us are ready to hear each others point of view on all issues of national and international importance. Today's event is a step towards in that direction. Even though the National Assembly has passed the PEMRA bill, the PCHR acknowledges the need for greater consultations with the media stakeholders on the amendment bill. As they say better late than never, we have invited honorable Senators and MNAs to attend this briefing, he maintained.

