

Term of Reference No.F  
(as per the Court Order)

*“To enquire into allegations of media-related corruption and suggest steps to ensure impartial and independent media for the upcoming elections.”*

Allegations of media-related corruption in general as per the Commission's formulation:

1. Bribes, inducements, perks, etc. to journalists and media personnel to obtain prominent or favourable coverage in media or to plant false or defamatory news against others.
2. Discriminatory, undue allocation of Government-controlled advertising to print media and electronic media.
3. Undue financial benefits obtained by/given to Government officials through direct payment in cash, or kind, or through kickbacks on award of advertising contracts to favoured advertising agencies.

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4. Unfair selection/appointment of advertising agencies and media, using different methods.
5. Non-media-related commercial interests of media proprietors (e.g. ownership of other commercial enterprises) which influence the contents and tone of news media coverage.
6. Corruptive impact of cross-media ownership.
7. Other forms of media-related corruption e.g. misuse of State-owned media to advance unethical individual or organizational benefits.

**Note:** The Commission's opinion on the above 7 allegations will be rendered in the second part of this Report, not in this part which is the first part of the Report.

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**Allegations of media-related corruption in the context of elections due in 2013 as per the Commission's formulation:**

1. That, in the last quarter of 2012 in particular and in the period leading up to the commencement of the formal election phase, placement of ads in media about various development projects of the Federal Government and the four Provincial Governments have increased notably "so as to influence public opinion" in favour of one or more political parties or personalities.

**Note:** The Supreme Court has already in 2012 taken notice of, and prohibited the further publication or broadcast of advertisements about Government programmes and projects in which the photographs and names of public office-holders belonging to ruling parties are featured.

2. That certain political parties and leaders, through their moneyed supporters, have already even before the commencement of the formal election phase, covertly "purchased" certain TV channels on a short-term basis, or on a part-time basis e.g. for about three months, or for about

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three hours of prime time per day, in order to slant programming contents in their own favour in a subtle manner.

3. That, similarly, prospective candidates and political parties have paid bribes/offered inducements to certain TV anchors, producers, news directors or TV channels to make comments or project content which advances their own electoral prospects.
4. That some journalists/proprietors/editors/broadcasters in the print and broadcast media have also been given financial inducements to favour certain parties or leaders.
5. That budgets for the advertising campaigns of the Federal Government and organizations under its control, as well as similar budgets of the four Provincial Governments and of organizations under their control were deliberately increased in the years between 2008 and 2013 both for corrupt purposes and to divert funds for eventual use in the Elections 2013.

6. That certain private-sector firms spend large amounts on advertising in media to covertly discourage/prevent/influence these media from reporting or commenting adversely upon aspects of these same private firms.
7. That most of the media, print and broadcast, do not adequately ---- or never ---- publish or broadcast investigative report/content which implicates/exposes how some of the largest advertisers are involved in irregularities, malpractices, unethical actions.
8. That the above two allegations may not be directly election-related but that they reflect the tendency of media to be vulnerable to exploitation and misuse for corrupt aims.
9. Non-financial aspects of media-related corruption: e.g. undeclared individual sympathies, alignments, etc. of media proprietors or journalists or broadcasters which will subtly or explicitly slant the nature and volume of coverage given by certain media for or against certain parties and candidates.

10. That the 4 to 5 in-house "CD" channels allowed by PEMRA to each cable TV distributor/operator can be/will be used to project advertising content or other messages at a local – not a national – level, to favour particular candidates or political parties.

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## Introduction

1. On 15<sup>th</sup> January, 2013, a Bench of the Honourable Supreme Court of Pakistan comprising Mr. Justice Jawwad S. Khawaja and Mr. Justice Khilji Arif Hussain during its deliberations on Constitutional Petition No.105/2012 along with CMAs-3795 & 3798 of 2012, HRC No.23957-S/2012 and Const. P.53/2012 and Constitution Petition No.104 of 2012 & CMA 3464/12 and Constitution Petition No.117/12 rendered an Order (at **Annexure "A"**) by which a Commission was appointed by the Honourable Court to conduct a study of issues raised by the several petitions through nine Terms of Reference (TORs) at **Annexure "B"**.
2. The Commission comprises as Chairman, Mr. Justice (R) Nasir Aslam Zahid and Member, Mr. Senator (R) Javed Jabbar.
3. Immediately after the receipt in Karachi by the Chairman and the Member of the written text of the Order and the related documents, on about **21<sup>st</sup> January 2013**, the Commission commenced informal discussion to identify the

elements needed for the work of the Commission including a time schedule, logistical, personnel and financial requirements.

4. The Chairman and Member decided, at the outset, to render their work for the Commission on an honorary basis i.e. without any remuneration. Only expenses incurred by the Chairman and Member on air travel, hotel accommodation outside Karachi, ground transport in Karachi and elsewhere when and if required would be entitled for reimbursement.
5. After reviewing various options, the Commission decided to invite Mr. Salim Gul Shaikh, former Federal Secretary, Government of Pakistan, now a permanent resident of Islamabad to serve as Secretary of the Commission. While accepting the invitation, Mr. Salim Gul Shaikh also insisted on serving the Commission on an honorary basis without remuneration.
6. The Chairman, Member and Secretary decided to give such honorary work the highest priority and changed their other

private, prior schedules of work to enable them to fulfil their task on time as a public service.

7. On 22<sup>nd</sup> January, 2013, the Commission requested the Honourable Court to arrange for/authorize release of funds required to conduct its work.
8. Even before receiving any funds for basic preparatory logistics, the Chairman, Member and Secretary used their private resources to initiate the essential preliminary steps e.g. search for suitable offices, support personnel, ground transport, purchase of air tickets for travel to Islamabad, hotel charges etc.
9. The Chairman made available the resources of the Legal Aid Centre, Karachi of which he is also the Honorary Chairman to provide the initial, crucially needed base at which the Chairman, Member and Secretary could work and use secretarial support, computers etc.

The Member made available the support services of a civil society organization of which he is a co-founder i.e. SPO

(Strengthening Participatory Organization) to provide networking and preparatory support in Karachi, Islamabad, Lahore, Peshawar and Quetta.

10. After a meeting with the Acting Registrar of the Sindh High Court and communication with the Karachi Registry of the Supreme Court, it was evident that adequate and appropriate office space for the Commission is not available in both the above locations. It was then found that three to four rooms at Qasr-e-Naz, the Federal Lodge at Club Road, Karachi would be the most practical low-cost option. With the help of the Court, such rooms were obtained on payment of rent through the Ministry of Housing & Works, Islamabad. The Commission commenced occupancy of the rooms on **22<sup>nd</sup> February, 2013**, until which time the Commission functioned from the premises of the Legal Aid Centre and with the private resources of the Chairman, the Member and the Secretary.

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11. As a result of a direction given to the Ministry of Information and Broadcasting, Government of Pakistan by

the Honourable Court, an amount of Rs.2 million was received by the Commission by a cheque dated 14<sup>th</sup> February, 2013.

12. To obtain secretarial staff to facilitate the work of the Commission, "wanted" advertisements were placed on a no-cost basis on the Internet-based employment exchange service known as "OLX". Two Research Consultants were identified as being relevant.

13. The following personnel were engaged on a temporary contract/daily professional fee basis to facilitate the Commission's work:

- (i) Mr. Moeen Ahmed, Office Secretary/Stenographer w.e.f. 06.02.2013,
- (ii) Mr. Sohail Shahzad Bhatti, Stenographer w.e.f. 09.03.2013.

**Part-time:**

- (iii) Ms Afia Salam, Research Consultant, w.e.f. 04.03.2013.
- (iv) Ms Kokab Jehan, Associate Research Consultant, w.e.f. 11.03.2013.

14. Without waiting for the completion of all the minimal logistics and office premises etc., the Commission commenced its schedule of meetings with relevant individuals and organizations on **7<sup>th</sup> February, 2013** at Karachi. To prevent dependence on any other official or commercial organization, the Commission decided to use facilities at a reasonably low cost at 3/4-star hotels to hold such meetings in different cities.
15. For air travel, the Commission and the Secretary travelled by either Economy Plus Class or Economy Class.
16. From **7<sup>th</sup> February, 2013 to 18<sup>th</sup> March, 2013**, in Karachi, Islamabad, Lahore, Peshawar and Quetta, the Commission met with individuals associated with organizations in the public sector, the private sector and civil society to elicit their views on the TORs (their names and dates are at Annexure C).

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Despite frequent disruption of normal city life in Karachi due to targeted killings, terrorist incidents, strikes and stoppages, the Commission persisted with its work schedule to the optimal extent possible.

17. To enable citizens at large to also contribute their valued views with regard to the TORs of the Commission, advertisements in a prominent quarter-page size were placed in leading Urdu, Sindhi and English newspapers across Pakistan on **19<sup>th</sup> February, 2013**. The advertisements conveyed the text of the TORs and listed the email address and P.O. Box number of the Commission to which the citizens and citizen forums could address their views.
18. The Commission decided not to publicize the schedule of its meetings in advance and did not make any announcement to the media in order to ensure that the work proceeds without distraction.
19. All those who met with the Commission were assured that their statements and views would remain confidential if so desired by them. This assurance enabled such persons and organizations to provide data and share their views with the Commission in complete confidence.

### Working methods used by the Commission

1. The nine Terms of Reference (TORs) given to the Commission by the Supreme Court are wide-ranging and comprehensive in scope.
2. Ideally, to provide a detailed, minutely investigated Report would require at least four to five times longer a period than the period specified in the Court order i.e. only ten weeks, from **15<sup>th</sup> January 2013**, the date on which the Order was rendered, to the deadline stated in the order i.e. **31<sup>st</sup> March 2013**. This ten-week (about 75 days) period includes / included the preliminary phase of about 15 days required for the preparatory logistics to enable the Commission to formally commence its work. This meant that the actual time available to the commission was less than eight weeks i.e. **less than 60 days**, including holidays and days required for travel between cities, days lost due to strikes, disruptions caused by terrorist incidents, time lost due to load-shedding (even at Qasr-e-Naz where our office was located, the electricity was cut-off on **14<sup>th</sup> March, 2013** due to non-payment of bills). This disruption occurred just when the

drafting of the Report on TOR No.F was about to commence. Alternative arrangements were made to relocate the work once again at the Legal Aid Centre until a generator was obtained on rent for our own office use.

3. The Order of the Court does state in para 11 that :

*“The report of the Commission may be submitted in Court on or before 31.3.2013 or on such other date as may be fixed by the Court if requested by the Commission”*

4. Noting that part of the Terms of Reference e.g. TOR no. F requires **urgency** in the submission of at least the part of the Report related to TOR No.F and recognizing that detailed investigation of records, documents, tax returns, other financial data would necessitate the use of substantive resources of time, professional expertise and funds which the Court itself is in a position to authorize, the Commission decided to use the following work methods to compile its Report :

A. Face-to-face meetings with individuals who represent all the official and private organizations relevant to the scope of the TORs.

B. Similar meetings in person with individual media specialists and representatives of civil society organizations.

**Note:** All principal observations made by every person who participated in the hearings held by the Commission were recorded in writing. A summary of these observations was promptly prepared for verification and for permanent reference whenever required.

C. Review of various texts, documents etc., provided to the Commission by those who met with it.

D. Data and documents obtained by the Commission from official and private sources.

E. Research through websites on the Internet, from journals, and books.

- F. Observations and notes by the Commission about content in different media.
- G. Contributions received from citizens and forums in response to the advertisements published by the Commission in leading newspapers.
- H. Review of the petitions admitted by the Court on matters related to all or some of the TORs.

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Reasons for compiling and submitting the Report  
to the Supreme Court in two Parts

1. As stated earlier, the Order of the Court requires the Report to be submitted on or before **31<sup>st</sup> March, 2013** or, if requested, by the Commission and so permitted by the Court, on such other date as fixed by the Court.
2. The Commission noted that one specific TOR i.e. TOR No.F deals directly with the general elections whose formal election schedule is expected to commence in the **last week of March 2013** to enable elections to be held in **May 2013**.
3. TOR No.F reads:  
  
*“To enquire into allegations of media-related corruption and suggest steps to ensure impartial and independent media for the upcoming elections.”*
4. While some aspects of the remaining eight TORs also have a bearing on the upcoming elections, these other eight TORs can be placed in a medium-term and long-term perspective of basic institutional reforms needed. These do not have an urgent, “overnight” immediacy. Steps regarding these other

eight TORs may need to be initiated at the earliest. But TOR No.F deserves the most urgency.

5. TOR No.F is stated in the form of a single sentence but actually comprises two distinct and separate parts i.e: the first part which requires the Commission “To enquire into allegations of media-related corruption.....” and the second part which requires the Commission to “....suggest steps to ensure impartial and independent media for the upcoming elections.”

As is evident in a reading of the list, as per the Commission’s own formulations, of “Allegations of media-related corruption in general” and the list of the “Allegations of media-related corruption **in the context of Elections 2013**” recorded in the first section of this Report: the allegations themselves cover a wide range of possible malpractices, unethical actions and even, in some cases, criminal acts. Given the imminence of Elections 2013, the Commission is firmly of the opinion that it is simply not possible to conclusively investigate even a single one of the 17 allegations or the validity of apprehensions. The only exception would be to uphold or reject the suspicion in

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allegation No.1 in the list of “Allegations of media-related corruption in the context of Elections 2013” and that too by inference i.e. by noting the comparative data for the significant increase in allocation for advertising between 2008 and 2013 by the Federal Government and four Provincial Governments with the alleged covert aim of funneling some of the funds for use in the campaign phase of Elections 2013.

As of 21<sup>st</sup> March, 2013, the Commission has not received comprehensive data on the above subject from the Federal and the four Provincial Governments. Some of the requested data has been received. The remaining data is awaited and will be provided to the Hon’ble Court immediately on receipt.

Nevertheless, even after all the data is received, the Commission cannot make a definitive conclusion on this subject unless all possible investigative procedures are conducted e.g. even the seemingly simple process of verifying deposits made into bank accounts of individuals suspected to be involved in any malpractice related to the above allegations would require considerably more time and

assertion of the legal rights of the Commission to access such private information etc.

6. Therefore, the Commission decided to submit to the Hon'ble Court only Observations about the allegations of media-related corruption based on extensive discussion with all stakeholders possessing diverse viewpoints and offering some of the required documents rather than attempt to render a definitive finding on each allegation. Such definitive findings can only be arrived at after detailed investigation. The Commission's Observations as recorded in this Report convey the opinion that media-related corruption does appear to exist in various spheres of media and which deserves substantive investigation in at least one case in each category of allegations to arrive at, hopefully the truth resulting in legal, punitive action to thereby serve as a credible deterrent against the recurrence of such corruption in the future.
7. In view of the foregoing paragraphs, the Commission decided to consider and provide precise Recommendations for the possible attainment of the second part of the sentence

that expresses TOR No.F i.e. “.... to suggest steps to ensure impartial and independent media for the upcoming elections.”

8. Thus, the Commission is submitting its Report to the Hon’ble Court in **two phases** as follows:

A. The first part of the Report would deal exclusively with TOR No.F and all efforts would be made to submit the Report to the Court by **21<sup>st</sup> March, 2013** to enable the Court to consider whether one, or more or all Recommendations in the Report could be made part of the Election process between **21<sup>st</sup> March 2013** and **11<sup>th</sup> May 2013**.

B. The second part of the Report containing material on the remaining eight TORs would be submitted, if the Court so permits, by **31<sup>st</sup> May, 2013**.

## Categories of normal content in news media:

### TV:

1. News bulletins.
2. Talk shows.
3. Other current affairs reports.  
e.g. one-on-one interviews, "opinion" segments,  
field visits to constituencies, studio or field-based  
shows with audiences.
4. Satirical, humorous, political programmes.
5. Investigative documentaries.
6. Announcements about "breaking news".
7. Tickers running across base of TV screen.
8. Super-impositions of words or visual symbols unrelated to  
the subject on the main part of the TV screen.
9. Announcements made between programmes or during  
mid-breaks in programmes about other programmes  
or about other subjects.
10. Foreign content.
11. Advertising for various products and services.
12. Paid-for political advertising ..... for individual  
candidates and political parties.
13. Any other types of content.

**Radio:**

1. News bulletins.
2. Music.
3. Talk shows.
4. Other current affairs reports.  
e.g. one-on-one interviews, "opinion" segments, audio-recorded visits to constituencies, studio or field-based shows with audiences.
5. Satirical, humorous, political programmes.
6. Investigative documentaries.
7. Announcements about "breaking news".
8. Brief audio intrusions through music or words during unrelated programming.
9. Announcements made between programmes or during mid-breaks in programmes about other programmes or about other subjects.
10. Indian and western music, songs, etc.
11. Advertising for various products and services.
12. Paid-for political advertising ..... for individual candidates and political parties.
13. Any other types of content.

### **Printed newspapers and magazines:**

1. News reports.
2. Photographs related to news/or unrelated.
3. Opinion features/columns by staff writers or by contributing columnists.
4. Editorials.
5. Cartoons.
6. Any special content e.g. a "box" item.
7. Advertising for various products and services.
8. Paid-for advertising by candidates and political parties.
9. Any other types of content.

### **Web-based/Internet/Cell phone media:**

1. Websites of TV channels
2. Links to the above TV websites/content cited by other websites/portals/channels, etc.
3. Websites of Radio channels.
4. Links to the above Radio websites/content cited by other websites/portals/channels, etc.
5. Web-based TV channels.
6. Web-based Radio channels.

7. Blogs.
8. Other forms of content e.g. SMS messages.
9. Web-based advertising for various products and services.
10. Paid for political advertising ..... by candidates or political parties.
11. Any other types of content.

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Observations by the Media Commission with regard to TOR No.F

1. Observations in this section of the Report are being noted only on those aspects of the media that are of direct relevance to TOR No.F i.e. “to enquire into allegations of media-related corruption and suggest steps to ensure impartial and independent media in the upcoming elections”.
2. Observations by the Commission on aspects of media covered by the other eight TORs will be presented in the second part of the Report which is expected to be submitted on or before **31<sup>st</sup> May, 2013**.
3. As noted in the Introduction to this Report and as detailed in the relevant Annexures, the Commission met with about 165 individuals associated with 80 different organizations associated directly or indirectly with the media sector, official and non-official, Federal and Provincial, between **7<sup>th</sup> February, 2013** and **18<sup>th</sup> March, 2013** in Islamabad, Karachi, Lahore, Peshawar and Quetta.

4. The Commission was thus able to benefit from the views and information provided by all these esteemed persons. Such inputs came from a Federal perspective as well as from the perspective of each of the four Provinces of the Federation. Virtually, every single segment of the media sector is represented in the range of persons heard and noted.

The Commission received widely contrasting opinions and analyses. Some of these were often entirely contradictory of other claims about facts and other opinions.

5. Unsurprisingly, the Federal Government and each Province have their own distinct internal operative conditions and perceptions. The Commission separately met the Federal Minister and the Federal Secretary of the Ministry of Information and Broadcasting and the Secretaries of the Information Departments of the four Provincial Governments and other relevant persons. There were stark diversities of perceptions. For instance: in one Province, the

Secretary stated with confidence: "There is not a single dummy newspaper published in this Province". Whereas only about one hour later, in a meeting with media specialists of the same Province it was confidently asserted: "The large majority of the newspapers on the approved media list of the Department of Information consists of totally dummy newspapers !"

In one Province, there is a substantial sum spent on advertising the programmes of the Provincial Government in electronic media. In another Province, not a single rupee has been allotted for this same purpose.

In one Province, importance is given to the relevance of skills and prior experience possessed by an officer in the subject of media and communication before appointing him or her to the Information Department. In another, this aspect is given low or no priority.

6. In response to the questions as to what weightage interviewees would give to the influence of media on the voting and results of the Elections 2013, there was once again a sharp contrast. For example, Lt. General (R) Abdul Qadir Baloch, MNA from NA-271 comprising three large but sparsely populated districts of Panjgur, Kharan and Washab in southern Balochistan was of the firm opinion that the media's impact would be "zero". An additional reason given by him and others was that for several weeks past, organizations with extremist views have prohibited Cable TV Operators in southern Balochistan from distributing the signals of virtually all the PEMRA-licensed TV channels on political grounds. They said that only the single Balochi language TV channel is permitted to be viewed. As well as the fact that in many parts of this area of Balochistan, neither the national anthem nor the flag of Pakistan are permitted to be sung, heard or seen in public.

Other opinions from elsewhere, on the average, were of the view that media would influence the results with a weightage of between 10 to 20 per cent with only one individual claiming the effect would be about 50 percent.

It was said that the impact of media would be higher in urban areas compared to rural areas.

It was further said that, in overall terms, factors such as affinity with clan, tribe, sect, religion, language, ethnicity, loyalty to a particular individual candidate or membership/association with a political party would be the other sources of influence in shaping the Election results.

Compared to earlier Elections, the prevailing conditions in the country would enhance the role of the media in facilitating and campaigning by candidates wanting to communicate with potential voters.

7. With the announcement on 20<sup>th</sup> March, 2013 that the date of Elections will be 11<sup>th</sup> May, 2013, the potential role of media is likely to increase in terms of weightage because of the relatively short period available for campaigning after the process of scrutiny of nomination papers of candidates, appeals, etc. is completed.

8. This short time-frame places an onerous responsibility on the news media and on all related organizations and institutions to ensure that Codes, Guidelines, legally-mandated standards and any or all of the Recommendations of this Commission accepted by the Hon'ble Court and/or the Election Commission of Pakistan are faithfully fulfilled.
  
9. Despite low literacy, high poverty and other negative factors, media in Pakistan in general and news media in particular over the past 65 years since the birth of this nation-State have rendered a pivotal role in the country's development and progress.
  
10. The independent Press has suffered oppressive laws and discriminatory policies and yet has sustained bold and courageous journalism to inform and educate the people on issues of public interest.

11. While electronic media such as Radio and TV were State-owned and Government-controlled monopolies for over 50 years, they too rendered a valuable role in educating the people and raising awareness on aspects of social, cultural and economic development. These media also produced several outstanding drama, music and entertainment programmes which were highly popular in Pakistan and overseas. They trained a large number of professionals in electronic media. However, due to their Government control, entities such as PTV, PBC and APP have almost always -- except for brief phases at different times -- been mouthpieces of the Government-of-the-day and have relatively low credibility in their news and current affairs programmes.

12. With the advent of privately-owned Radio and TV channels onwards of 2000-2002, the over-all media landscape of Pakistan has been transformed. Citizens have a wide range of choice in sources for news, entertainment, education, religious subjects, sports etc. both from Pakistani sources and overseas sources.

13. The privately-owned Press of Pakistan has enhanced and extended its vigorous use of freedom of expression in the past 12 years.
14. Together, private print and electronic media have extended pluralism and freedom of choice, have created thousands of new employment opportunities, have provided on-the-job training and skills' development to thousands of Pakistanis.
15. Media have also fostered a new environment of open, candid debate, of a new level of awareness, colorful entertainment and of enjoyment.
16. Yet TV news channels in particular, tend to focus excessively on bad news and use a hyped-up approach that is loud and hysterical, and often imbalanced. The aggressive intrusion of commercial advertising into programme content marked by frequent, prolonged and disruptive mid-breaks distracts attention and prevents continuity and coherence in discourse.

The ad nauseum repetition of "Breaking News", particularly where such spoken and written headlines deal with incidents of violence and bloodshed are vicarious and offensive with a traumatizing impact on children and young people. Adults as well find such an approach to the presentation of news to be disregardful and insensitive to viewers and listeners.

17. As a consequence of the eruption of terrorism post-9/11, while the country itself is a prime victim of the fall-out from unilateral intervention by foreign countries in the region, and the victims of weak, internal governance, news media have been afflicted with unprecedented human losses and injuries.
18. Pakistan is regrettably rated as the second, or sometimes even the first, most dangerous country in the world for working journalists.

19. Viewed from a global, especially a Western perspective, despite the proliferation of the electronic media in the past 12 years and despite the continued robustness of print media, Pakistan ranks relatively low on an international index of media such as the Freedom House, USA. This anomaly exists because of deficiencies in the regulatory dimension of electronic media as well as in the roles of State and Government in operating electronic media and in controlling the allocation of advertising, as also due to the absence of enlightened legislation to facilitate easy access to information by citizens.
20. The standards of impartiality and independence are highly desirable benchmarks towards which all possible efforts should be devoted by media themselves and by institutions/organizations tasked with the responsibility to monitor these ideal standards.
21. At the same time, the fundamental right of citizens and of media to exercise freedom of expression inevitably involves

the exercise of judgment and the statement of opinions that convey subjective, individual perspectives or convey institutional affinities.

22. There is one specific part of the content of the news media, be they print media or electronic media which should, in theory if not in practice as well, be completely **fact-based**, and without any subjective dimension.
23. These are news bulletins on TV channels and news reports in print media.
24. In recent years in Pakistan, particularly with the advent of private electronic media, a new form of content has been introduced into news bulletins as also in news media in general. This new content is covered by the term: "**infotainment**". This term describes a form of content which combines fact-based material with elements such as music, satirical or humorous or critical words and phrases that are presented along with the news item itself.

25. Infotainment is predominantly **subjective**, not objective; **partial**, not impartial. While the media projecting such content may be “independent”, the sheer act of combining pure, fact-based news content with entirely subjective elements distracts from focus on the facts and also erodes the ideal of “independence”. Even when, during an election phase, **all** the principal candidates or political parties are satirically or humorously covered through items of infotainment, the simple injection of subjectivity into the content of news bulletins deprives the concerned media of the credibility of being truly “independent”.

26. During the Elections phase in particular, the sanctity of the fact-based content of news bulletins needs to be strictly respected and enforced. Any use of infotainment elements during news bulletins would always be potentially, if not actually, at the expense of the candidates or the political parties being portrayed in those infotainment-based news bulletins.

This vital distinction between pure news and subjective opinions is a globally recognized and practiced principle. For example, Guideline No.8.2 in the document titled: "Reporting Elections: Broadcast Guidelines" issued by four reputed international forums such as UNESCO, Reuter Foundation, Index for Free Expression and Article 19 states, in part: "All broadcasters should endeavour to clearly identify editorial opinion **and to avoid airing it during news programmes**".

It is deeply regrettable that, in the past several years, this line of demarcation is violated every day by broadcast media in Pakistan.

Even in print media, adjectives conveying opinions are sometimes made part of headlines and the text of news reports. While it is sometimes necessary to use some adjectives e.g. "negligence" while reporting a tragedy caused

by incompetence, the principle of separation between news and comment should be respected.

27. The purity of fact-based news bulletins on TV channels and radio channels should be enforced by the relevant oversight authorities i.e. through self-regulation, collective representative bodies, civil society forums, State institutions such as the Election Commission of Pakistan, etc. News media should then be freely able to exercise freedom of expression in satirical programmes, opinion shows or features or editorials, etc. but even in such programmes, the principle of even-handedness should be ensured.

28. While reiterating the standards of impartiality and independence as the ideal benchmarks for news media during Elections 2013, it is equally necessary to ensure that in the content of news bulletins on electronic media and in news reports in print media, the values of **fairness** and **balance** be rigorously pursued and enforced.

29. With reference to the section in this Report titled "Categories of normal content in news media": there are **thirteen** different types of normal content of TV channels; **thirteen** different types of content of Radio channels, **nine** different types of content in printed newspapers and magazines, **eleven** different types of content in web-based/cell phone media.
30. The values of fairness and balance must apply to **all** these types of content in **all** three categories with exceptions only in respect of the need to make allowances for the nature of some items e.g. a cartoon normally represents humour and/or makes fun of a subject or figure. By itself, a cartoon cannot be "fair" and "balanced", except to abide by norms of taste and decency. But if a newspaper prints a notably large number of cartoons over a certain period of time, all of which make fun of only say, **one** political party or one candidate, then obviously even an item of content like cartoons can be used in an **unfair** and **imbalanced** manner.

31. Thus, applying reasonable standards of judgment as to what is fair and balanced, all the different types of content in TV, Radio and print media should actually be fair and balanced, so as to contribute towards ideal standards of “impartial and independent media”.

Since 2000-2002 when the proliferation of private electronic news media commenced in Pakistan and now in 2013 when there are over two dozens TV news channels alone, viewers and listeners have the unprecedented freedom to choose which channel they wish to listen to or view. Therefore, if they find that a particular channel is projecting content with which they disagree, they have the opportunity to switch to other channels.

32. The interests of the proprietors of private media, be they print or electronic, and whether such interests are only related to the media enterprises or to their commercial interests in non-media sectors, impinge upon the capacity of the media to be truly “independent”. Because the question arises as to whether privately-owned media which operate on a commercial basis can ever be truly “independent” of commercial and private business considerations.

33. In the case of the State-owned media which are Government-controlled: During the Election phase, in which a Caretaker Government holds office and thereby determines the policies and practices of these State-owned media: It becomes vitally necessary to ensure that any **residual, lingering effects of the same, State-owned media** being controlled by the **preceding** Government for five years does not have a subtle or distinct “carry-over” effect during the Elections phase in which the State-owned media, even more than privately-owned media, should be impartial and independent, fair and balanced.
34. Some of the negative aspects of the media that could have an adverse influence on the nature of coverage by media in Elections 2013 were said to be as follows:
- (a) Lack of adequate training in the fundamentals of Journalism of those who presently occupy prominent positions on screen in electronic media e.g. as correspondents, TV anchors etc.

- (b) Low salaries paid to some senior-level, mid-level and junior staff in certain media organizations in comparison to very high sums paid to TV anchors making staff at certain levels vulnerable to corruptive influence.
- (c) In smaller towns and in rural areas, the claim is that local reporters/ "stringers" are paid no salary whatsoever, or only a token fee. Such persons are allegedly encouraged by media houses to misuse their "media cards" in order to generate income thus resulting in distorted and inaccurate content being fed to channels in large cities.
- (d) Lop-sided and imbalanced coverage given to large cities and large Provinces at the expense of the two smaller but equally important Provinces such as Khyber-Pakhtoonkhwa and Balochistan.

Recommendations by the Media Commission for consideration by the Supreme Court to enable fulfillment of the aim described in TOR No.F i.e. “..... to ensure impartial and independent media for the upcoming elections.”

The Commission submits that there are eleven modes and sectors by which actions can be taken to ensure impartial and independent media during the Elections 2013:

The Commission points out that the eleventh mode will require actions and measures going into the post-Elections 2013 phase to achieve conclusive aims.

1. Through self-regulation by media organizations themselves, by individual media proprietors, journalists, practitioners:

- a. The following representative bodies/organizations/corporations should be advised by the Election Commission of Pakistan to refine, practice and enforce their own **existing** Codes of Ethics:
- b. Either in part, or in whole, the Codes listed below include sections that are relevant to the roles of journalists, columnists, TV anchors, editors, news directors, programme

producers, publishers and proprietors of print and broadcast media during elections as well.

For example, placed below are some excerpts from:

**The Code of Ethics of the Council of Pakistan Newspaper Editors (CPNE):**

3. *The Press shall avoid biased reporting or publication of unverified material, and avoid the expression of comments and conjecture as established fact. Generalization based on the behavior of an individual or small number of individuals will be termed unethical.*

16. *The Press while publishing findings of opinion polls and surveys shall indicate the number of people, geographical area on which the polls and surveys were conducted and the identity of poll sponsor.*

17. *Any kind of privilege or inducement, financial or otherwise, which is likely to create conflict of interest and any inducement, offered to influence the performance of professional duties and is not compatible with the concept of reputable, independent and responsible press must be avoided.*

**The Code of Ethics of the Pakistan Broadcasters' Association (PBA)**

1) *Where individuals or groups are singled out for criticism, the programme should provide reasonable opportunity for a balancing response.*

4.2) *All efforts must be made by broadcasters and talk show moderators to correct error of fact at the earliest opportunity and to ensure that corrections brought expressly to their notice are broadcast to public.*

**The Code of Ethics of the Pakistan Federal Union of Journalists (PFUJ)**

2. *Whether [by] publication or suppression, the acceptance of a bribe by a journalist is one of the gravest professional offences.*

11. *..... (a member of PFUJ) should not falsify information or documents, or distort or misrepresent facts.*

- c. Even in the case of Advertisers and Advertising Agencies, it would be relevant for the Member-organizations of these two sectors to ensure that the contents of any advertising supported or sponsored, created or placed by them adheres to their own Codes with special reference to Elections 2013 and to ECP's guidelines.

**The Code of Ethics of the Advertising Association of Pakistan (AAP)**

3. *To ensure that all advertising produced by its member agencies is legal, decent, honest and truthful.*

*XIV. To benefit the nation by harnessing advertising for the good of the country, its institutions, its citizens; to cooperate with the Government in promoting its social objectives and in the tasks of nation-building.*

- d. Codes of Conduct which already exist are, broadly speaking, very appropriate and positive frameworks that define minimal norms and high ideals. However, in the past as well as in the present times, the **enforcement** dimension of these Codes has been either too weak to be effective. Or there has been no enforcement when violations have occurred. Neither media themselves nor their respective representative bodies nor the official regulatory bodies have taken firm, fair and prompt actions when they needed to be taken.
- e. During Elections in particular, it is important to protect freedom of expression but at the same time, through decisive and timely action, prevent misuse of freedom that is unfair to particular political parties or candidates.

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**The Commission welcomes the initiatives already taken by some of the above organizations and forums to**

**formulate and formally adopt Codes of Ethics and Conduct specifically for application in Elections 2013.**

- f. The Commission suggests that, to supplement and strengthen such collective efforts and others such as by the Pakistan Broadcasters Association in the process of self-regulation, each TV channel and each FM Radio channel should establish an **“Internal Ombudsman”** to enable the receipt of cases and complaints from the public at large, or by other associations, in order to facilitate timely internal scrutiny and corrective action.

To make such an **Internal Ombudsman** in each channel effective, announcements about this mechanism being made available especially with the commencement of the formal elections phase should be broadcast at least once every 24 hours in a reasonable duration and manner so that the public is duly informed of this facility and of how to convey complaints or observations for the consideration of the **Internal Ombudsman**.

- g. Similarly, for the Elections phase in particular and on a permanent long-term basis as well, **each newspaper should establish an Internal Ombudsman** along the same lines i.e. with the publication of an announcement to inform readers of the introduction of this facility along with contact details.

One newspaper i.e. The Express Tribune did introduce its own Internal Ombudsman. The distinguished present Chief Election Commissioner lent his reputed name to this office by accepting to serve as this newspaper's Ombudsman. But the arrangement no longer exists, presumably because the Ombudsman accepted the high office of the Chief Election Commissioner in 2012.

In varying forms e.g. an Ombudsman, a Readers', Editor, etc. the office of Internal Ombudsman does exist in several newspapers in Europe, Asia (India) and elsewhere.

**Note:** It is necessary to record the obvious requirement that any person appointed to serve as an Internal Ombudsman in a TV channel, Radio channel or in a newspaper should be an individual of acknowledged/public stature who has the reputation and capacity to render an opinion on a complaint without being influenced by any consideration except for the facts and the truth.

- h. With regard to the self-regulation applied to the advertising dimension of electronic media content, it is strongly recommended that it is vital to ensure a level playing field during the Elections phase in respect of fair and equal costs charged by TV channels and Radio channels to different political parties and candidates.

This aspect is important because, to date, there is no public sharing of information by Radio channels and TV channels about the precise rates at which they sell their time to

advertisers. Each channel determines its own rates on the basis of various business considerations.

As in normal times, but more so in the Elections phase, complete transparency of such data is a prerequisite to ensure that all parties and candidates that can afford to invest amounts in advertising have a fair and equal opportunity to purchase time in electronic media.

The Commission noted with pleasure that the office-holders of the Pakistan Broadcasters' Association themselves proposed and endorsed the concept of placing on the website of PBA the exact rates to be charged by each channel for different durations of advertising spots and for different types of content that can be aired on a commercial basis, as is the commendable practice in some other countries.

The Commission recommends that this measure be implemented with immediate effect.

- i. Detailed reference should also be made by all self-regulatory organizations in Pakistan to internationally-recommended guidelines and values as appended below, from reputed foreign/global institutions and from individual countries such as Britain. These overseas sources offer detailed measures and suggestions based on extensive experience of the inter-action between media and elections.
- j. By a fortuitous coincidence, one of the most respected global public broadcasters i.e. the BBC, has approved, as recently as 7<sup>th</sup> **March, 2013** a document titled: "Election Guidelines for May 2013" to cover local government elections in England and Wales on 2<sup>nd</sup> **May, 2013**. These Guidelines are an extremely timely and pertinent point of reference for electronic media in Pakistan and for review by the Election Commission of Pakistan.

Codes of Ethics/Conduct of the following bodies are placed at **Annexure "C"**:

1. All Pakistan Newspapers Society (APNS)
2. Council of Pakistan Newspaper Editors (CPNE)
3. Pakistan Federal Union of Journalists (PFUJ)
4. Pakistan Television Corporation (PTV)
5. Pakistan Broadcasting Corporation (PBC)
6. Pakistan Electronic Media Regulatory Authority (PEMRA)
7. Pakistan Broadcasters' Association (PBA)
8. Press Council of Pakistan (PCP)
9. Pakistan Coalition for Ethical Journalism (PCEJ)
10. Pakistan Advertisers' Society (PAS)
11. Advertising Association of Pakistan (AAP).
12. Reporting Elections: Broadcast Guidelines (by Article 19, Index, Reuter Foundation, UNESCO).
13. Great Britain's Electoral Commission's Media Handbook.
14. BBC's Electoral Values
15. BBC's Election Guidelines for May 2013.

**Note:** While the long-established news agencies such as the **Government-controlled APP** and the **privately-owned,**

partially publicly-funded PPI have their own internal Codes, other news agencies established in recent years are also obliged to practice professional principles. Similarly, “media buying” houses, a new kind of private entity which purchases media time and space in bulk for one or more clients are also bound by their respective internal corporate codes of ethical conduct.

The Cable TV Operators Association of Pakistan is also obligated by its stated aims and objects to abide by the law, rules and norms.

2. Through oversight by the Election Commission of Pakistan:

- a. It is recommended that **the ECP invite Chief Executives/Chairpersons/Proprietors of all TV channels and Radio channels** to a meeting in Islamabad to convey directly to them in person ECP's Code of Media Conduct for Elections 2013 and ECP's Guidelines so that the senior-most decision-makers and policy-makers of private electronic media are informed about their personal responsibilities and their individual accountability for the content of electronic media during the formal Elections phase.
- b. **ECP should strictly enforce its own Codes, Rules, Guidelines etc.** which should include definitions, parameters, amplifications etc.
- c. **ECP should engage the professional services of independent firms which normally monitor private electronic media** on behalf of commercial advertisers, to report to ECP on a daily/weekly basis with regard to the broadcast of political advertising by parties and candidates

with special reference as to whether the limits and principles prescribed by ECP are being observed. There are two or three such commercial firms which track/conduct monitoring of broadcast content for the information and benefit of advertisers and advertising agencies.

**Note:** As past experience has shown, in its regulatory capacity, PEMRA has been unable to ensure enforcement of Rules in general for more than one reason. For instance, the speed with which certain TV channels that received Notices from PEMRA obtained Stay Orders from High Courts which prevent PEMRA from applying necessary measures, as also due to PEMRA's own omissions in respect of lack of timely and decisive actions. This is why it would be pertinent and effective for ECP to take the required initiatives as above, with regard to electronic media.

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With regard to the use of the legal process by which PEMRA's actions or omissions are challenged/delayed etc. the situation is as follows i.e. a total of 72 cases are pending,

70 of them in 2 High Courts, 1 in the Supreme Court, 1 in Muzaffarabad High Court. 45 cases are pending in the Sindh High Court, 20 in the Lahore High Court, 5 in the Islamabad High Court since 2009, 2010, 2011, 2012 and the first weeks of 2013.

- d. **ECP should invite office-bearers of APNS and CPNE to a meeting with ECP in Islamabad** to convey directly to them in person ECP's Code of Media Conduct for Elections 2013 and ECP's Guidelines so that the senior-most decision-makers and policy-makers of print media are informed about their personal responsibilities and their individual accountability for the content of print media during the formal Elections phase.
- e. **ECP should require APNS to provide a weekly report of space sold/used by its Member-Publications** to publish advertisements for political parties and candidates along with details of the rates charged for such space.

- f. **ECP should use its own in-house monitoring system** with the support of the Press Information Department/Ministry of Information and Broadcasting/Press Council of Pakistan, and the four Provincial Governments' Information Departments to monitor whether print media are practising their own Codes of Ethics and the Guidelines of ECP.
- g. **ECP should invite office-bearers of PFUJ, APNEC, PCEJ and other relevant bodies** e.g. Electronic Media Journalists Association, Lahore etc. to convey directly to them in person ECP's Code of Media Conduct for Elections 2013 and ECP's Guidelines so that the working journalists in both print and electronic media are requested to practice their own Codes of Conduct and are informed about their personal responsibilities and their individual accountability for the content reported by them for projection by print and electronic media during the formal Elections phase.

One or more such meetings have reportedly already been held. ECP may wish to reinforce the process in case the

Supreme Court accepts one or more of the Recommendations by the Media Commission concerning TOR No.F.

- h. **ECP may wish to consider a proposal to the effect** that all candidates and political parties wishing to place advertising on a paid basis in newspapers, magazines, TV channels, Radio channels be mandatorily required to do so **only through a specially-created Political Advertising Cell in ECP itself.**

This proposed Cell should have the power to decline booking or advertising in media if it exceeds the limits of expenditure prescribed by ECP.

If such a proposal is accepted, ECP may use its own facilities to conduct such coordination work between candidates and media. Or ECP may requisition the already existing facilities and country-wide infrastructure for such coordination in the form of the Press Information Department of the Federal Ministry of Information and

Broadcasting and the Information Departments of the four Provincial Governments.

Thus, all media would receive requests/orders for political advertising through this Cell in ECP and would, in turn, provide invoices to ECP to obtain payment for such advertising, in advance, or within the specified period.

Such a proposed Cell would ensure that ECP remains fully informed on the precise space/time being used for political advertising in mass media by candidates and parties and the exact charges being applied by print media and electronic media. Such co-ordination of information would ensure a level playing field for all parties and candidates and conform to the principles of complete transparency and accountability.

To ensure instant public knowledge of the identities of those firms or individuals responsible for creating/placing political advertising of a defamatory or offensive nature, it should be compulsory for all advertising in print media to include the

name of the advertising agency or other organization connected with the placement of the said advertisement. Such public knowledge of alignments between candidates, political parties and commercial firms would strengthen the principle of transparency.

This proposed Cell-methodology would be superior to the conventional methods of obtaining expenditure statements from parties and candidates on a post-facto basis i.e. **after** the Elections. This proposed methodology would also prevent the malpractice of discriminatory rates for space and time that could be charged by media in favour of some parties and candidates and to the disadvantage of other parties and candidates, data about which ECP would normally remain un-informed because media, specially TV channels and radio channels can, and do vary their rates from time to time, and from client to client.

Even if PBA implements its laudable intention referred to earlier in their Report in Recommendation No.1 (h) to

publicly share data about exact rates to be charged for political/normal advertising, this proposed routing of all political advertising on mass media through ECP would guarantee total transparency and a level playing field.

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3. Through civil society networks:

- a. Monitoring of the pre-Election phase is already being conducted by reputed civil society networks and associations such as the Free and Fair Election Network (FAFEN) whose members include several NGOs with extensive contacts amongst communities in all four Provinces.
- b. FAFEN has already announced that with its member organizations and the co-operation of citizens on a voluntary basis, as many as about **43,000 persons** will monitor local, constituency-level activities related to campaigns by political parties and candidates. This co-operative arrangement will enable accurate monitoring of **non-mass media promotion** such as posters, banners, leaflets, stickers, etc.
- c. These civil society networks will also enable monitoring of the in-house "CD" TV channels that are operated by virtually each of the over 3159 cable TV distributors licensed by PEMRA.

Whereas PEMRA has, as of February 2013, issued licenses to 89 satellite TV channels (34 news channels of which 27 are actually presently broadcasting, the remaining number i.e. 55 channels being entertainment, sports, other categories etc. 26 foreign channels have been given licences for 'landing rights' i.e. permission to be distributed and viewed in Pakistan). PEMRA has also issued licences to 171 FM Radio channels including commercial and university campus channels.

But, the **actual total number of TV channels operating in Pakistan amount to over 15,000-----** because each Cable TV Operator/Distributor has permission to operate four or five "CD" TV channels on which the Operator screens mostly pirated films from Bollywood, Hollywood or legally-obtained content and advertising !

- d. However, by monitoring the "Head-end" cable TV distributors who re-distribute satellite TV signals to several

“Loop” holders / “line”-holders, the logistical task can be reduced in scale.

- e. The Commission recommends that ECP encourage credible civil society networks to help strengthen the role of impartial and independent media in Elections 2013.

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4. Through official regulation:

a. In the case of electronic media, PEMRA has a three-fold responsibility whose fulfillment should be overseen by ECP.

(a) To ensure that license-holders of satellite TV channels abide by the terms on which licenses have been issued to them, failing which **action should be promptly taken** as per the law and rules.

(b) To exercise special vigilance during the formal Election phase to monitor whether the Code of Ethics/Code of Media Conduct declared by ECP are being respected and practiced by electronic media and **to report promptly to ECP** when any violation occurs.

(c) To sensitize the 3159 plus Cable TV Distributors/Operators to the Code of Ethics/Code of Media Content declared by ECP and to ensure that any content in satellite TV

channels and on their own CD TV channels conforms to the defined best practices.

- b. In the case of print media, the Press Council of Pakistan and the Ministry of Information and Broadcasting of the Caretaker Government have a special responsibility to monitor news content and advertising content in newspapers and magazines so as to keep ECP informed on a timely basis in case any violation of Codes are committed by print media. Both these entities should be so informed by ECP.

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5. For Internet-based media, through official regulation and non-official cooperation:

- a. Whereas the total circulation of daily newspapers in Pakistan is not estimated to exceed 1.5 million copies with a readership of about 7 to 8 million people in a population of over 180 million, Internet users are presently estimated to be between 25 to 30 million people i.e. about treble the number of persons reading printed newspapers every day. A sizable number of the 25-30 million Internet users are estimated to be regular visitors to the websites of printed newspapers, TV channels and Radio channels.
- b. In such web-based versions of other media and in the case of other social media on the Internet, the Ministry of Information Technology and the Pakistan Telecommunication Authority share the responsibility to ensure that, without curbing the freedom of expression which already exists in abundance --- ! --- on the websites and blogs accessed by Pakistani voters, minimal standards

are observed of fairness and balance, taste and decency, integrity and impartiality.

- c. However, enforcement in social media is possibly the most difficult form of enforcement because of the open-ended, seamless nature of the Internet. In extreme cases, access to sources such as parts of, or the whole of Youtube can be banned outright. But complete bans on universally-used sources such as Youtube are unfair and ill-advised. Pakistan needs to co-ordinate with Youtube management to agree upon procedures required for blocking access to specific content on Youtube which is, for instance, deliberately insulting or abusive of religious beliefs.
- d. While it is hoped that no extreme provocation is unleashed on the Internet from any source outside or inside Pakistan inciting excessive reaction on the regulatory-front, it is **recommended that ECP invite the following official and non-official bodies** to sensitize them to their respective responsibilities regarding the role of content on the Internet

and about the need to ensure that such content **facilitates** rather than prevents the conduct of free and fair elections:

1. Ministry of Information Technology
2. PTA
3. Digital Rights Foundation  
<http://digitalrightsfoundation.pk> Nighat Dad
4. Bolo Bhi [www.bolobhi.org](http://www.bolobhi.org)  
Sana Saleem, Farieha Aziz
5. P@SHA [www.pasha.org.pk](http://www.pasha.org.pk)  
Naseer Akhtar (Chairman) Jehan Ara (President)
6. ISPAK (Internet service providers' association)  
<http://www.ispak.pk/> Wahaj us Siraj
7. Bytes for All, Pakistan <http://content.bytesforall.pk/>  
Shahzad Ahmed
8. ISOC Internet Society.
9. Take Back the Tech... project of APC (Association of Progressive Communications) <http://www.apc.org/>
10. Blogap (Bloggers Association of Pakistan)  
<http://groups.google.com/group/blogap/t/> Faisal Kapadia
11. DBTB (Don't block the blog) [www.dbtb.org](http://www.dbtb.org)  
Dr. Awab Alvi
12. PressPakistan [presspakistan.googlegroups.com](http://presspakistan.googlegroups.com)
13. Any other similar forums.

6. Through ECP directives to State-owned media and organizations:
- a. State-owned PBC and PTV do not come within the purview of PEMRA. They are governed respectively, by the PBC Act, 1973 and the Companies Ordinance, 1984.
  - b. Even though a non-partisan Caretaker Government will be in office during the Elections 2013 phase and therefore is expected to direct PBC and PTV to ensure non-partisan and impartial coverage of political content, it would be helpful for **ECP to also issue its own directives to PBC and PTV** to remind them that they are also subject to the Code of Conduct/Code of Media Content declared by ECP.
  - c. While APP is not, by itself a mass medium, it is the largest news agency of Pakistan and is a State-owned entity. During the tenure of the Caretaker Government it is also obliged to be non-partisan and impartial in reporting and in analysis of all Election activities without favouring any political party or candidate. Nevertheless, **it is recommended that ECP issue a directive to APP (and to all news agencies) to strictly abide by the relevant Code of Conduct.**

7. **Through a policy of vigilance practiced by the Caretaker Government:**

- a. During its short yet significant tenure, the Caretaker Government has a formidable responsibility. In conditions of poor governance and frequent incidents of violence and terrorism, the Caretaker Governments at the Federal level and four Provincial levels have to ensure stable and secure conditions that will enable the conduct of free and fair elections in a peaceful manner.
- b. The tragic, callous killings of working journalists in Pakistan in recent years, the terrible injuries and losses suffered by such journalists and their families and the environment of intimidation and threats that journalists and media houses are continuously exposed to in many parts of both urban and rural areas: in such times, the Caretaker Governments' foremost responsibility becomes to enforce conditions of security and safety for all citizens, with special measures for journalists and media units in the field because it is the media that bring the vital information instantly, or soonest possible, to the attention of the people and of all the Governments.

- c. In supporting the work of the Election Commission of Pakistan, **the Caretaker Governments are obliged to apply extraordinary vigilance** to anticipate dangers and threats to journalists and media units and media houses and to take pre-emptive measures whenever possible on a timely basis, to prevent the occurrence of violence against journalists and media units.
- d. **No effort should be spared by the Caretaker Governments** at the Federal level and at all four Provincial levels to make available the required facilities, financial resources etc. to fulfill this particular responsibility.
- e. The Commission welcomes the Report published on 21<sup>st</sup> March, 2013 that the Council of Pakistan Newspaper Editors (CPNE) has decided to establish a Security Committee to provide new and special arrangements and support mechanism for the safety and security of working journalists as such innovations will be of timely relevance during the elections phase.

8. Through the policies and actions of political parties and candidates:

- a. As the principal participants and protagonists in the Elections phase, the political parties of the country and the several hundreds of candidates seeking votes during the campaign phase have a legal obligation to abide by the terms and conditions prescribed by the ECP with regard to the expenditure on advertising in media, with regard to their inter-actions with media when they make statements, or give interviews or participate in broadcast programmes etc.
- b. Political parties and candidates contesting in the Elections 2013 have already gone through unprecedented scrutiny of their assets, internal party elections, past and present financial conditions, etc.
- c. Yet they continue to face the challenge that, during the heat and pressure inevitably generated by the competitive and often closely contested nature of election campaigns, **their interactions with the media in all respects should remain within the defined limits and be of the highest standards of probity and decency.**

- d. A solemn responsibility, therefore, rests upon all political parties and candidates with regard to how they interact with the media in terms of conducting their electoral campaign activities and briefing media or facilitating media to provide coverage to such activities as well as in their financial dealings with the media concerning expenditure on advertising.

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9. Through activism by readers, viewers, listeners as media audiences:

- a. In one of the preceding sections of these Recommendations i.e. Section 3 “Through civil society networks”, we have noted and recommended that the non-official associations which already exist in Pakistan that have been engaged in advocacy and capacity-building work to promote democratic values and practices and to enhance electoral participation have a specific role to render in Elections 2013 towards helping media to be impartial and independent.
- b. In this section, the aim is to focus attention on the principle that citizens at large, in their capacity as audiences for the content projected by media, also have an obligation to fulfill.
- c. Instead of being only passive recipients of content directed at them by mass media, citizens have both the opportunity and the responsibility to monitor media content, to take notice of threats against journalists and media and thus broaden and

deepen public participation in the shared task of ensuring that media are able to be truly impartial and independent.

- d. Whereas the role identified in Section 3 for civil society networks is on an institutional and organizational level, **the role and responsibility focused on in this section is on the individual, the family and the group level of our society and of the body of voters.**
- e. Activism by citizens on media-related issues has been relatively limited in Pakistan. For example, in December, 1997, the Citizens' Media Commission of Pakistan became the first such network to be established. Using private and philanthropic resources, this initiative was sustained for about eight years following which a few other initiatives have also developed. However, there is vast, unexplored potential for citizens' activism in monitoring media content, and to bringing to the attention of the media, instances where the values of fairness and balance have been violated. With particular reference to Elections 2013, there is a need to

provide a genuine citizens' perspective, unaffected by partisan considerations, on the areas of concern covered by TOR No.F.

- e. In evaluating the authenticity of any media monitoring contributed by citizens and media audiences, due care should be taken to verify as to whether some elements with partisan interests and aims are covertly using the façade of the name of "citizens" to project the impression of a genuine "citizens" response to media content. For example, there is the use of covertly-organized letter writing or pre-planned expression of opinion and protests by a camouflaged group to create the misleading impression of large-scale "popular" opinion. Whereas those behind creating such misleading impressions may be only a handful of persons.

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10. Through international observers and overseas organizations:

- a. In keeping with well-established global practices also accepted by the Government of Pakistan and the Election Commission of Pakistan and as applied during several general elections held in the past three decades, international organizations such as the European Union, the Inter-Parliamentary Union, SAARC, and other institutions with a specialized focus on the conduct of elections, have monitored and observed the election process in the country and have published detailed reports and documents.
- b. In several respects, such reports by overseas observers have helped to pinpoint malpractices including attempts at pre-poll rigging and irregularities during polling itself.
- c. Such past reports have also included observations on how media have rendered their own role in elections.

- d. In Elections 2013 as well, overseas forums which are permitted by the Government of Pakistan and ECP to visit various parts of the country to monitor all phases of the process and to take an overall view of the conditions **will, by their presence, be able to render a credible opinion on whether media** have played an impartial and independent role.
- e. Their presence, known in advance to media and to those elements that may wish to prevent media from rendering a due role, will serve as a positive deterrent against any disruptive threat and become a contributory factor for a supportive role by media in Elections 2013.

11. Through detailed, forensic audit and investigation which is likely to go beyond the Elections phase:

- i. In the context of a completely transformed media sector which, despite its low international ranking, is widely seen by the people of Pakistan as a reflection of extraordinary new freedom and vibrancy, it is unfortunate that the Commission is obliged to consider the issues of media-related corruption.
- ii. In doing so, the Commission is taking note of the several allegations and statements about media-related corruption contained in the petitions considered by the Hon'ble Supreme Court which then appointed this Commission to study the aspect of media-related corruption as part of the nine Terms of Reference (TORs) given to the Commission.
- iii. On the basis of questions posed to the representatives of different sectors associated with media in Pakistan, a contrasting set of responses was received.

- iv. Officials of the Federal and Provincial Governments and of all Government-controlled entities did **not** accept that corrupt practices exist in their respective institutions or departments. They stated that when and if corrupt acts occur in their domains, these are promptly taken notice of, and punitive and corrective action is taken.
- v. In contrast, virtually every single office-bearer of the representative bodies of the private media as well as individual media specialists, journalists, broadcasters, media entrepreneurs, members of civil society and senior representatives of leading political parties **stated that corrupt practices do occur in inter-actions between Government and media, between the private sector and private media, and inside both private and State-owned electronic media.** Further, that virtually no punitive, corrective action is taken by Government or by regulatory bodies or by representative bodies of private media and of journalists.

- vi. It was stated that corrupt practices exist in a variety of forms and that most of such practices are obviously difficult to prove with speed and ease, but that they do exist.
- vii. It was claimed by the non-official persons that the State-owned and Government-controlled media institutions and organizations, ranging from the Press Information Department and the Audit Bureau of Circulation under the Ministry of Information and Broadcasting to Pakistan Television Corporation, from all the Provincial Departments of Information to APP were all parts of the broad, corruptive process.
- viii. Representatives of civil society and of journalists stressed that the very presence of the State and Government in the media sector was itself a fundamentally corruptive act because the coercive resources of the State were/are being used to benefit either the ruling political parties and public office-holders, or Government officials at various levels.

ix. It is claimed by some that in the inter-action between Government institutions, journalists and private media houses, **secret** funds are used in a corruptive manner to influence media content.

**Note:** It is necessary to stress at this point that the term "secret funds" has sometimes been incorrectly applied and used, resulting in a misrepresentation of the facts. For example, the annual grant given by the Federal Government through the Ministry of Information and Broadcasting to Pakistan Broadcasting Corporation Limited (PBC) amounting to over Rs.2 billion was/is perhaps inadvertently included in the classification of "secret funds". Similarly, grants given to PTV for development projects and APP as grant-in-aid and a research organization, are also incorrectly/inappropriately placed under "secret funds". Whereas most of such grants are itemized in the Annual Budget and are publicly declared grants which are the subject of audit each year by the Auditor-General of Pakistan.

- x. The viewpoint of the Federal Ministry of Information and Broadcasting about this subject of secret funds is reproduced as under:

(Quote)

**“Secret Service Expenditure in I&B**

- a. Factually it is not “Secret” in terms of usage and operations both. Instead it is a **Supportive and Promotional Fund**, the expenditure of which is supervised by the Principal Accounting Officer (PAO) of the Ministry as per below listed legal citations. The main advantage of the fund is that prompt action with reasonable justification is taken to address urgent media issues – making its end result-based operations non-auditable. However, a quarterly certificate of expenditure is recorded by PAO, certifying the expenditure incurred in the public interest.

**Legal Citations**

- b. The following set of laws and regulations of the land are adduced to legally establish the operations of SSE/SPF :-

- i. The secret service expenditure is protected under **Annual Finance Act (herein 2012-13)**. It is governed by **Article 73-75** of the **Constitution, 1973** – which lays down detailed procedure concerning a **Money Bill** passed by the Parliament, and assented by the President, of which SSE / SPF are written part.
- ii. It is explained in **Finance Division’s Budget Document (Pages 1230-1231)** under following **Accounting Codes** :
- **Special Publicity Fund**  
SPF : ID-1357 : Rs. 100 million
  - **Secret Service Expenditure**  
SSE : ID – 1358 : Rs. 10.20 million
  - **(For a Regional Research Organization)**  
ID – 1363 : Rs. 30.10 million

- iii. **Article 19 – A of the Constitution of 1973** demarcates Right to Information (RTI) Framework as under:-

*“Every citizen shall have the right to have access to information in all matters of public importance subject to regulations and reasonable restrictions imposed by law”.*

- iv. It obviously means that Framers of **Article 19 – A** did have in their mind enforcement of subordinate regulations and restrictions to logically govern **Right to Information (RTI)** privileges (herein access to information on SSE / SPF operations)”.

(Unquote)

Thus, excluding the grant given to a research organization, the total present annual “secret fund” amounts to Rs. 110.20 million, and not “billions of rupees” as is sometimes alleged. ✓

- xi. The Commission is of the opinion that:

- (a) The allocation of sums under the Head “secret funds” is done as per the law.
- (b) That said, the use of secret funds , particularly in the realm of media and information can only be justifiable if it meets extremely crucial and unavoidable needs from the perspective of national security. The application of the “national security” or “public
- 3ms  
\*
- ✓

interest" perspective to the use of secret funds should be subject to scrutiny and approval by a forum such as the Parliamentary Committee on National Security or the Parliamentary Committees on Information and Broadcasting.

- xii. In a de facto sense, any discriminatory allocation of advertising contracts of Government-controlled entities to advertising agencies and media is prone to being misused as a "non-secret" method to potentially achieve "secret" objectives !

(end of Note)

- xiii. It is stated that the selection of advertising agencies to create and place Government advertising in media is marked by corrupt practices to favour one, or a few agencies, at the expense of all others. **That influence is extended from some of the highest levels of State office to favour individuals who enjoy specially close relations with such holders of high public office.**

- xiv. It was also said that in the **placement** of advertising in media, in the **invoicing** process and in **payments**, some documents are fabricated and other malpractices are used to achieve corrupt aims.
- xv. That such corrupt practices include under-the-table, up-front payments made in advance to secure such advertising contracts from Government entities.
- xvi. It is said by non-officials that the budgets for advertising by various Government organizations increased disproportionately in the period between 2008 and 2013 with the intent of manipulating documents, procedures and payments in such a way so as to channel substantial sums to secret, private political campaign funds which will be used in the Elections 2013 phase.

Whereas Government representatives ascribed reasons for the increase to the simple need to inform the public about

new projects and programmes for the welfare of people and for national development.

For instance, as per the data provided by the Pakistan Broadcasters' Association to the Commission, total expenditure on advertising on TV and FM Radio channels by Government-controlled entities reflected increases, in individual cases, of between 5 percent to 30 percent while the composite figures given by PBA are as below:

-	2006-07	Rs.1.52 Billion
-	2007-08	Rs.1.51 Billion
-	2008-09	Rs.1.41 Billion
-	2009-10	Rs.2.08 Billion
-	2010-11	Rs.2.09 Billion
-	2011-12	Rs.2.04 Billion

It is notable that, whereas the rates charged by print media for Government advertising are notably lower than the rates charged for private commercial advertising, in the case of electronic media, the rates charged for advertising by Government-controlled entities is often significantly **higher** than the rates charged for commercial advertising by private firms.

- xvii. It was claimed that relevant persons in print and electronic media including some proprietors, editors, news directors, TV anchors, producers etc. have already been persuaded by material, illicit means to extend covert support to certain parties and candidates.
- xviii. It was also stated that certain large private enterprises e.g. one or more firms in the construction and housing sector, use their vast financial resources to inhibit and discourage private media from presenting independent critical analysis of the vested interests of such private firms due to the volume of advertising time and space bought by such firms, which bring financial benefit to proprietors of print and broadcast media.
- xix. Some prominent persons in public life who appeared before the Commission were of the view that irresponsibility and malice on the part of some media persons is also a form of corruption. They complained bitterly about the slander and defamation they have faced both through incorrect, unverified reports published in certain newspapers and through unfounded allegations made by certain TV anchors. They emphasized that if they were to file cases in court to

seek damages and justice, the legal process would take several years and require high financial costs. Retractions and corrections by media, especially by TV channels is virtually non-existent. The Councils of Complaints under the PEMRA law are slow and ineffective. They called for independent mechanisms to hold errant media accountable in a prompt and effective manner.

- xx. In this particular Report which focuses only on TOR No.F, the Commission has deliberately restricted most of its Observations and all of its Recommendations to the relationship between media and Elections 2013. The Commission will deal with non-election-related aspects of corruption in the second part of its Report which will deal with the remaining eight TORs.
- xxi. As stated elsewhere in this Report i.e. in para no.4 of the section titled: "Working methods used by the Commission", the scale, nature and complexity of the different types of media-related corruption **require the application of specialized, professional investigative skills preferably by independent, non-official specialized firms of auditors, etc., backed by adequate resources, the force of law and**

other legal means to obtain all related documents, examine/cross-examine both those making allegations and those who are the subject of the allegations in order to determine the veracity of the allegations. **The Commission does not possess such required resources or the time before the deadline/s** and therefore decided to meet with every relevant sector associated with media, and with particular individuals to make preliminary observations and recommendations to the Hon'ble Supreme Court.

- xxii. **The Commission is of the opinion that sufficient grounds exist for forensic audits and detailed investigations of several transactions and aspects referred to in the petitions admitted by the Court and aspects of media-related corruption in this Report.**

*(End of Report on TOR No.F)*

*2/11/16*  
*A*