

# Pakistan Media Development Authority

— a New Headquarter of Censorship in Pakistan



A briefing paper on how the proposed PMDA will impact adversely on digital media, socio-political narratives and public interest journalism in Pakistan

Produced by Digital Media Alliance of Pakistan (DigiMAP) and Freedom Network (FN)



# Pakistan Media Development Authority

— a New Headquarter of Censorship in Pakistan

---

Authored by **Muhammad Aftab Alam** and **Adnan Rehmat**  
**September 2021**

A briefing paper on how the proposed PMDA will impact  
adversely on digital media, socio-political narratives and  
public interest journalism in Pakistan

Produced by **Digital Media Alliance of Pakistan** (DigiMAP) and **Freedom Network** (FN)



# Table of Contents

<b>CHAPTER 1: Media regulation as a concept: benefits and pitfalls.....</b>	<b>07</b>
<b>CHAPTER 2: Various media regulators in Pakistan and their mandates.....</b>	<b>11</b>
<b>CHAPTER 3: The PMDA trajectory and what it entails.....</b>	<b>15</b>
<b>CHAPTER 4: The given mandate and apparent purpose of PMDA.....</b>	<b>19</b>
<b>CHAPTER 5: How the PMDA draft law will compromise the entire media landscape.....</b>	<b>27</b>
<b>CHAPTER 6: Impact of PMDA on independent digital media and public interest journalism.....</b>	<b>33</b>
<b>CHAPTER 7: Conclusion.....</b>	<b>41</b>



## Chapter I:

# Media Regulation As A Concept: Benefits And Pitfalls

## The Good Side:

Experts and researchers are of the view that introducing regulatory regimes and issuance of licenses to the private sector is essential for any competitive market. They recognize justification of regulation of the broadcast / online media sector on following grounds:

- 1-           Airwaves are a 'public good' and States have a role in safeguarding this public good.
- 2-           Wireless communication and allocation of frequencies is a technical process and requires regulatory intervention.
- 3-           Transparency and fairness in allocation frequencies necessitate regulatory frameworks for allocation and licensing of broadcasting frequencies.
- 4-           Potential of undue concentration media ownership means society has a legitimate interest in placing limits on ownership of private broadcast media to prevent concentration risks.
- 5-           Protection of net neutrality, which guarantees equal ability for all citizens to access and disseminate information, opinions, perspectives, etc. online, is essential to safeguarding online media diversity.

Hans J. Kleinsteuber (1943-2012), a German political and media scientist, wrote that [01]regulation in the original sense refers to an arbitrary process under the rule of the State, usually centred in an 'independent regulatory body'. In his paper, “The Internet between Regulation and Governance”, he stated that “[02]this body makes decisions in situations where there are conflicting interests. The idea is that decision-making is so complex that a specialized body of independent experts is better equipped to do this than state bureaucrats. One field that is regulated by the State is broadcasting.”

---

1 Hans J. Kleinsteuber: <https://www.osce.org/files/f/documents/2/a/13844.pdf>

2 Ammu Joseph – 2011:

<http://www.unesco.org/new/fileadmin/MULTIMEDIA/HQ/CI/CI/pdf/wsis/UNESCO%20WSIS%20For%20Media%20Regulation%20&%20Citizens%20Ammu%20Joseph%20Final.pdf>



## The Dark Side:

There are also pitfalls of regulatory regimes if they veer off the path of bare minimum intervention by states by violating neutrality of the referee status of the State.

While commenting on State's role in media regulations, Ammu Joseph – an Indian journalist and academican – states that “the need for media regulation cannot be used as a fig leaf to mask the promotion of state control over media.” She further writes that “media regulation in the public interest in a democratic society must necessarily be the setting up of a properly constituted, independent public authority empowered with a clear mandate, guaranteed autonomy and public representation.

Desilon Daniels, a journalist associated with the Public Media Alliance (PMA) – the largest global association of public media organisations – adds “[a] regulatory authority is an important element of broadcasting and has a role to play in protecting media freedoms. But that protection requires a commitment to impartiality, independence, and transparency”. Furthermore, while explaining the role of regulators, Hans J. Kleinsteuber emphasized that “[3]freedom, diversity and pluralism must be predominant values in the work of [regulatory] / governance bodies.”

Professor Stanisław Jędrzejewski, who teaches at the John Paul II Catholic University of Lublin, adds that ... “the scope of [regulatory] intervention may not exceed what is necessary; separate from what is on the content of this which includes the distribution of media; technology neutral regulatory duties to differentiate linear and non-linear services; to protect freedom of speech, pluralism, programming diversity, respect the right of reply, to protect minors...[4]”

---

3 Desilon Daniels – 2021: <https://www.publicmediaalliance.org/the-importance-of-independent-media-regulators/>

4 Stanisław Jędrzejewski: <https://core.ac.uk/download/pdf/229415948.pdf>



## Chapter II:

# Various Media Regulators In Pakistan And Their Mandates

By mid-2021 Pakistan had four distinct regulatory models:

## The Press Council of Pakistan (PCP)

Press Council of Pakistan (PCP) is a statutory body whose key membership comes from the sector such as nominees of the newspapers owners, editors and journalists. The President of the country appoints the chairman of the Council and government merely notifies the board of the Council. There is a little political, commercial or official interference in the appointments of the members of the Council. However, the major portion of the financial support for the Council comes from annual federal budget, which seems to compromise its independent functioning, leaving it open to undue influence.

**Mandate:** The PCP was established under the Press Council Ordinance, 2002. Its aim is to be an autonomous, independent body established to ensure and monitor ethical standards of practice for Pakistan's print media, news agencies and their websites. The PCP is perhaps the only regulatory institution, which has representation of all key stakeholders in its body.

## Pakistan Electronic Media Regulatory Authority (PEMRA)

The Pakistan Electronic Media Regulatory Authority (PEMRA) is a 13-member statutory body whose membership is a mixture of both government officials and citizens. However, it is the president of Pakistan who appoints all members of the Authority. Moreover, the federal government can issue directives of binding nature to the Authority on matters of policy. This leaves is compliant with government priorities and preferences.

**Mandate:** PEMRA was formed under the Pakistan Electronic Media Regulatory Authority Ordinance of 2002. The primary objective of the Authority is “improve the standards of information, education and entertainment” as well as “enlarge the choices available to the people of Pakistan in the media for news, current affairs.” The Authority is responsible for regulation of all Pakistani “broadcast media and distribution services” which are established for the purpose of international, national, provincial, district, local or special target audiences.

The PEMRA also regulates the distribution of foreign and local TV and radio channels in Pakistan. However, PEMRA does not have jurisdiction over the state-run broadcast media and distribution services in the country. This essentially creates a two-system broadcast sector whereby the government regulates the private broadcast sector but not the state broadcast sector under the same rules.

## Pakistan Telecommunication Authority (PTA)

The Pakistan Telecommunication Authority (PTA) is a statutory body that consists of three members who are supposed to be technical – telecom engineering and finance – experts. The federal government is the appointing authority for member of PTA. Besides, the federal government has the power to issue policy directives to the Authority on the matters relating to telecommunication policy and the Authority is under obligation to comply with these directives.

The PTA was formed in 1996 as a result of the enactment of the Pakistan Telecommunication (Re-Organization) Act of 1996.

**Mandate:** PTA is mandated to regulate the establishment, operation and maintenance of telecommunication systems and the provision of telecommunication services in Pakistan and promote the availability of a wide range of high quality, efficient, cost effective and competitive telecommunication services throughout Pakistan.

The PTA issues licences to telecom services to all landline and cell phone operators including 3G and 4G cell phone services. It is also registration authority for Internet service providers (ISPs) in the country. Recently, the Prevention of Electronic Crimes Act of 2016 has authorized the PTA to block or remove certain online content. This effectively makes PTA the 'internet regulator' of the country.

## Competition Commission of Pakistan (CPC)

The Competition Commission of Pakistan (CCP) is a statutory body to oversee market practices and mandated to prevent monopolistic and antitrust practices. Like the PTA, the federal government has the authority to appoint members of the Commission as well as its chairman. Moreover, federal government's financial allocations and grants constitute major part of the Commission's fund.

**Mandate:** The CCP was formed as a result of an act of the Parliament (Act No XIX of 2010) and has a fundamental duty to provide free competition in all spheres of commercial and economic activity and protect consumers from anti-competitive behaviour. While not specifically a 'media regulator' in the strictest sense of the word, the Commission can be considered as a 'supra-regulator' as all other regulatory agencies in Pakistan are required to contribute a certain percentage of the fee and charges levied by them on their respective licensees, including the mainstream media regulators. The Commission, in addition to undertaking various functions including inquiring into anti-competitive market practices, is responsible to oversee mergers and acquisitions of big market enterprises, including telecom sector, which has the 'media intermediary' status as without it digital media cannot exist. The merger of Warid Telecom with Mobilink in 2016 is one such example, which could happen only after the approval of the Commission.

## Troubling structures

In all these regulatory models, impartiality, independence, and transparency of the regulators are in question due to either their financial dependence on the federal government or appointments of their members by the federal government or their statutory obligations to comply with the directions of the federal government. Moreover, the Press, Newspapers, News Agencies and Books Registration Ordinance 2002 provides complete governmental control over registration of newspapers and news agencies in the country.

## Chapter III:

# The PMDA Trajectory And What It Entails

In the course of its tenure since assuming office in 2018, the Pakistan Tehrik-e-Insaf (PTI) government has been floating proposals for tough new media regulations and finally a centralized 'Pakistan Media Development Authority' (PMDA). The proposal of introducing a single 'regulatory body' for all media including newspapers, television, radio and internet-based media platforms is not an idea that was floated randomly. Before PTI, similar schemes did appear during the government of Pakistan Muslim League-N (PML-N). Nevertheless, after strong resistance from the stakeholders including All Pakistan Newspapers Society (APNS), the Council of Newspapers Editors (CPNE) and the Pakistan Federal Union of Journalists (PFUJ), the idea was shelved.

Fawad Chaudhry, during his first stint as the Federal Information Minister also threw the idea of a single regulatory body for media, but it could not materialise – perhaps due to a change in his ministerial portfolio. However, in May 2021, federal government's proposal to 'merge all media regulatory bodies' surfaced again. As the per media reports, the government invited Pakistan Broadcasters Association (PBA), All Pakistan Newspapers Society (APNS), and Council of Newspapers Editors (CPNE) for discussion on the proposal.

Upon zero response from these organizations, the government leaked a draft of an ordinance on 25 May 2021. Reacting to this development, the Pakistan Federal Union of Journalists (PFUJ), the Human Rights Commission of Pakistan (HRCPC) and Pakistan Bar Council (PBC) issued a joint statement on May 28, 2021. The statement outrightly rejected the proposed Pakistan Media Development Authority (PMDA) Ordinance 2021. These bodies termed this proposed law as “draconian in scope and devastating in its impact on the constitutional principles and guarantees for freedom of expression, media freedoms, and the right to information as well as the profession of journalism.”[05] Similarly, Awami National Party (ANP), [06] Pakistan People's Party (PPP) and Pakistan Muslim League (N) also rejected the proposal.[07]

Other media bodies such as APNS, PBA, CPNE, PFUJ (Barna Group), PFUJ (Dastoor Group) and Association of Electronic Media Editors and News Directors (AEMEND) also issued statements opposing the the proposed PMDA. These platforms termed the proposal “to hinder media freedoms and take control over the media by the top information bureaucracy.”[08] The Digital Media Alliance of Pakistan (DigiMAP) also issued a statement on June 3, 2021, expressing “deep concern at the government proposal to create a new authority to regulate the entire spectrum of the country's media sector including print, electronic, digital and film.”[09]

5 [http://hrcp-web.org/hrcpweb/pfuj-hrcp-pbc-term-proposed-media-ordinance-an-attempt-to-impose-media-martial-law/?utm\\_source=rss&utm\\_medium=rss&utm\\_campaign=pfuj-hrcp-pbc-term-proposed-media-ordinance-an-attempt-to-impose-media-martial-law](http://hrcp-web.org/hrcpweb/pfuj-hrcp-pbc-term-proposed-media-ordinance-an-attempt-to-impose-media-martial-law/?utm_source=rss&utm_medium=rss&utm_campaign=pfuj-hrcp-pbc-term-proposed-media-ordinance-an-attempt-to-impose-media-martial-law)

6 [https://epaper.dawn.com/DetailImage.php?StoryImage=30\\_05\\_2021\\_182\\_006](https://epaper.dawn.com/DetailImage.php?StoryImage=30_05_2021_182_006)

7 [https://epaper.dawn.com/DetailImage.php?StoryImage=01\\_06\\_2021\\_003\\_004](https://epaper.dawn.com/DetailImage.php?StoryImage=01_06_2021_003_004)

8 [https://epaper.dawn.com/DetailImage.php?StoryImage=02\\_06\\_2021\\_001\\_004](https://epaper.dawn.com/DetailImage.php?StoryImage=02_06_2021_001_004)

9 <https://thereporters.pk/pakistans-independent-digital-media-rejects-draconian-attempt-to-muzzle-media/>



In the meanwhile, federal government constituted a committee to 'liaise' on the matters of PMDA with the stakeholders. According to the official notification, a four-member committee – consisting of the Minister of State Farrukh Habib as its chairman and three federal bureaucrats members – was formed on June 2, 2021.[10]

On 5 June 2021, Fawad Chaudhry – the federal information minister – said that the “authority to regulate the electronic, print and social media would be set up only after taking the input from all stakeholders.” The minister also said that “if objections were raised on the concept paper, the government would not introduce new laws or amend existing ones that would give the impression that media freedom was being curbed.[11]” However, on August 24, 2021, it was reported that the “federal cabinet is set to take up and approve .... the draft bill for establishment of the Pakistan Media Development Authority (PMDA).”[12]

On August 25, 2021, PFUJ once again rejected statements of federal Information Minister Fawad Chaudhry and Minister of State Farrukh Habib about its position on the proposed Pakistan Media Development Authority (PMDA).[13]

---

10 <https://tribune.com.pk/story/2303082/committee-to-liaise-pmda-matters-with-stakeholders-formed>

11 <https://tribune.com.pk/story/2303711/fawad-says-media-authority-wont-be-set-up-without-stakeholders-input>

12 <https://www.dawn.com/news/1642295/cabinet-may-approve-draft-bill-to-set-up-pakistan-media-development-authority-today>

13 <https://www.dawn.com/news/1642504>



## Chapter IV:

# The Given Mandate And Apparent Purpose Of PMDA

The federal government's plan to introduce a new law for a single regulatory body – the proposed PMDA – to 'regulate' print, electronic and online media platforms in the country surfaced in full May 2021. The proposal also include repeal of five media related laws including the Newspapers Employees (Conditions of Services) Act (NECOSA) of 1973, the Pakistan Electronic Media Regulatory Authority (PEMRA) of 2002, the Press Council of Pakistan (PCP) Ordinance 2002, the Motion Pictures Ordinance of 1979 and the Press, Newspaper, News Agencies and Books Registration Ordinance, 2002.

## Structure And Appointment Of Proposed PMDA

While the government had until the beginning of September 2021 kept the draft of the proposed bill secret, the unofficially leaked draft Bill to establish the PMDA is a negation of internationally recognized principles of beneficial media regulations.

In principle, a sectoral regulator should be impartial to market stakeholders, independent from government control and autonomous in its decision-making process. However, the draft proposal shows that the members of proposed body will essentially be chosen by the federal government. It also proposes that the federal government shall establish an authority to be known as the Pakistan Media Development Authority (PMDA). The proposed draft provides that the PMDA shall consist of a chairman and eleven (11) members. All these members including the chairman shall be appointed by the president of Pakistan on the advice of the federal government.

Furthermore, as per the proposed draft, the chairman of the proposed PMDA shall be appointed from a panel of grade 21-22 of Information Group officers. Additionally, out of 11 members, five shall be high-level federal government officials. These include: two federal secretaries (secretary of Ministry of Information and Broadcasting and secretary of Interior Division) and three chairpersons of the federal bodies, i.e., Competition Commission of Pakistan (CCP); Pakistan Telecommunication Authority (PTA); and Federal Board of Revenue (FBR).

A body having two federal secretaries and chairpersons of three governmental bodies as its members and headed by a serving grade 21 or 22 officer, cannot by any stretch of the imagination be considered independent from government control. Moreover, in the presence of the federal government's power to issue binding directives, such a body will not be autonomous in its decision-making process. Furthermore, according to the proposal, these members and chairman will be at the mercy of the president or the federal government. According to the draft bill, the president or the federal government can remove them on their discretion.

## One Regulator For All Mediums: Print, Electronic And Online

Currently, PEMRA is mandated to 'regulate' private broadcast sector in Pakistan. Authentication of declaration for a newspaper falls under the provincial governments' domain. Deputy commissioners, at the districts level, process the authentication of a declaration for a newspaper. However, federal government keeps a register of authenticated declarations and issues certificated through Audit Bureau of Circulation (ABC) for the purpose of allocation of public sector advertisements. Internet related regulation such as licensing of internet service providers (ISPs), all telecom services and cell phone operators, including 3G and 4G cell phone services, fall in the domain of PTA. Recently, the Prevention of Electronic Crimes Act of 2016 has authorized the PTA to block or remove certain online content as well.

Pakistan's existing media freedoms are already in a bad state, as borne out by recent reports from Reporters Sans Frontieres (RSF), International federation of Journalists (IFJ), Committee to Protect Journalists (CPJ), Amnesty International (AI), Human Rights Watch (HRW) and Freedom House (FH). Media outlets are being closed. Journalists are being harassed, threatened and tortured. A few of them have been abducted as well. Criminal cases are registered against working journalists under PECA and general criminal laws. Critical voices have been forced off employment and forced to open personal YouTube channels to remain relevant. Free speech on television and the ability to write freely in newspapers has become extremely difficult.

In this extraordinary time of censorship, internet-based media platforms – including online news websites, Twitter, Facebook and YouTube – have become alternative sources to express news, views and analysis. This is happening despite the presence of PECA, issuance of notices to web-based media by PTA and inquires and investigation by the Federal Investigation Agency (FIA) against journalists and human rights defenders for their online freedom of expression. These laws, however, do not require mandatory licensing / registration for an online media platform.

## Trapping The Last Media Frontier

The PMDA is seeking to bring the internet – the last media frontier – in its ambit of a coercive censorship regime that has already constricted the legacy media of print and electronic. The proposed media legislation requires “digital media” – which includes web TV, over the top TV and other such content made available for viewing over the internet – to get a license for “the establishment, operation, maintenance and enforcement of such media” in the country. However, it remains a question as to how this proposed PMDA will 'regulate' online media in the presence of PECA and PTA. Will the government amend / repeal both of these laws as well? If PECA and PTA will remain intact without any amendment, will this proposed PMDA not amount to duplication of regulatory structure for online media? The government remains silent on these questions.

## Content Regulation: One Yardstick For All

According to the proposal, PMDA will apply the same yardstick to measure compliance of terms and conditions of licenses relating to content across all mediums. As mentioned in first section of this brief, in principle, a good practice for a regulator is that it must not indulge in 'content regulation' let alone applying one set of rules to different kinds and types of media platforms.

In reality, content regulation amounts to censorship and may contravene the constitutional right to freedom of expression as enumerated in Article 19. In principle, a regulator should limit itself to regulation of business in the market and ensure transparent, fair and level-playing field to all small, medium and big market players. It must not indulge into the adjudication of alleged violation of fundamental constitutional freedoms and rights. It is in fact the sole prerogative of the judiciary to decide whether any content on any medium is infringing upon rights of others.

The Supreme Court, in 'Government of Balochistan versus Azizullah Memon' (PLD 1993 Supreme Court 341) has declared that an administrative body like PMDA cannot adjudicate upon the rights of the citizens. Freedom of expression is a fundamental constitutional right and, according to the above referred judgment, it is role of the judiciary to decide about violations of the constitutional limits on this freedom.

While it is unconstitutional to allow an administrative body like PMDA to 'regulate the content' of its licensees, giving it authority to apply same yardstick to measure compliance of terms and conditions by all medium including online media will provoke more constitutional questions.

Each media format has unique dynamics and characteristics and cannot be governed under same set of content regulations. Print for instance, is under provincial domain. With 150 TV channels (still growing), over 300 radio stations, 3,000 print publications, numerous digital and social media platforms, hundreds of cable operators, numerous film production houses, it is practically impossible for one authority to apply the same set of rules on all mediums and govern them.

Moreover, the application of highly subjective expressions and terminologies – such as “sovereignty”, “security and integrity of the Islamic Republic of Pakistan” and “protecting the national, cultural, social and religious values” – as terms and conditions of the license will definitely make this proposed body the new headquarters of censorship in Pakistan.

## Regulation Or Policing?

The proposed PMDA law requires all electronic, print and digital media services to get licenses from the PMDA. The proposal states that no person shall engage in media service without obtaining a license/ registration certificate and declaration or NOC under this Ordinance.

The proposed draft also empowers PMDA to call for any information, audited financial statements, or any other relevant document required for carrying out the purposes from any person involved directly or indirectly in any 'regulated activity'. Failure to provide such required information within the stipulated time period shall be punishable by the imposition of fines as may be prescribed by the PMDA.

Moreover, the draft proposal gives arbitrary power to the PMDA to prohibit any person, print media, electronic media or digital media service operator or licensee or platform for a period as may be prescribed from printing, broadcasting, webcasting, re-broadcasting, distributing or making available online any program, advertisement or content. The proposal empowers PMDA to investigate and adjudicate on complaints and other claims made against licensees arising out of alleged contraventions of provisions of proposed Ordinance. The proposed law authorizes PMDA or its chairman to impose fine up to Rs 25 million on alleged violation of provisions of the law.

It is an established principle that no one can be judge of their own cause. However, this proposed bill gives powers to the PMDA to not only investigate the alleged violations of this law but also empowers it to “adjudicate on complaints” as well. All of this makes the proposed PMDA a judge, jury and executioner at the same time. Here are key aspects of the proposed PMDA with reference to its impact on online media and journalistic freedom.

## Media Tribunal And No Judicial Recourse To Justice

The proposed bill mentions establishment of a special tribunal. Being appointed by the president, accompanied by the members appointed by the federal government, the tribunal is mandated to: decide the appeals filed by any person against the order or decision of PMDA; implement wages for print, broadcast and digital media persons; and oversee their employment and professional related issues with media employees.

The decision of a tribunal can be questioned in the Supreme Court only, subtracting the intervening appellate courts. Being out of the framework of judicial system of the country, this tribunal seems to be another administrative body that is appointed by the government. An appeal to the tribunal against the decision of PMDA simply means an appeal against the decision of one governmental / administrative body to another governmental / administrative body. Unfortunately, there is no judicial recourse against the decision of PMDA other than appeal to the Supreme Court against the decision of the tribunal. This proposed 'appellate system' seems to be against the spirit of Article 10A of the Constitution of Pakistan as well that guarantees a fair trial and due process.



## Criminalizing Free Speech – Penal Provisions

The proposed law declares that violation or abetment of violation of any provision of the bill as a cognizable offence. The offence shall be punishable with imprisonment for a term which may extend to three years or with a fine which may extend up to Rs 25 million or with both. A repetition of such offence shall be punishable with imprisonment for a term which may extend to five years or with a fine which may extend to Rs.25 million or with both.

This would simply mean that violation of even a content related provisions of the law will amount to an offence under this proposal. In the presence of PECA, Anti-Terrorism Act and provisions relating to criminal defamation and sedition in the general criminal law, this proposed law will further criminalize the expression of opinion through any media, including online platforms, in Pakistan.



## Chapter V:

# How The PMDA Draft Law Will Compromise The Entire Media Landscape

The following are the professedly stated intentions and outcomes of the draft PMDA law:

- 1- The name of the proposed law is a misnomer – there is no 'development' aspect in it or any development commitment. Instead, it is censorship-oriented and control-oriented.
- 2- The draft brings all kinds of media into one regulatory ambit – print, electronic, digital and film. This will ease the burden and efficiency of censorship for the government.
- 3- There is an explicit link between regulatory compliance and public sector advertising (PSA) eligibility. Only those media – including digital media – will be eligible for government advertisement that will be licensees of PMDA. This is a sort of a bribe.
- 4- There is an explicit link between staff salaries and PSA eligibility, which if practiced will accentuate the employee-employer divide. If PSA is not intended for citizens, then why should citizens be penalized by arm-twisting messenger? This is a clear mala fide intent.
- 5- This proposed law lumps social media with formalized media – mixes professional media with personal media – with the aim to regulate conversations of citizens, not just formal media content. An example is the repeated Tik Tok bans in recent years.
- 6- There seems to be a contrived synonymy between media regulation (journalism) and cyber crime (cyber fraud) – this is through emphasis of the role of the Federal Investigation Agency (FIA) which disregards experience. The PECA law/FIA has been used over 100 times against journalists since 2020 alone.
- 7- The PMDA serves to expand the menu of critical topics. This is moving beyond banning criticism of Islam, armed forces and judiciary, as already in current laws, to also president and legislators, thereby defeating the purpose of holding government and its functionaries accountable, which is the principal purpose and mission of media everywhere in the world.

- 8- The draft law proposes to impose a strict licensing and permit system – 5 to 15-year licenses but with mandatory annual NOCs to newspapers, TV channels, radio stations, web-based news platforms/websites + non-news platforms (OTT/Netflix, etc.), news-related social media operations (YouTube channels, Facebook pages). This will mean periodic pressure on licensees to toe the official line and succumb to censorship.
- 9- The draft bill also seeks to register printing presses, which will expand censorship pressure on the presses to the world of books and political and social informational materials.
- 10- The draft PMDA law seeks to repeal 5 media-related laws:
- ★ The Press Council Ordinance 2002
  - ★ The Press, Newspapers, News Agencies and Books Registration Ordinance 2002
  - ★ The Newspaper Employees, (Conditions of Services Acts) 1973
  - ★ Pakistan Electronic Media Regulatory Authority Ordinance 2002/07
  - ★ The Motion Pictures Ordinance 1979
- 11- The proposed bills may result in a surge in persecution and prosecution of media entities, professional journalists and other information practitioners through a media tribunal which can hand out punishments of up to 3 years jail and Rs25m fines.
- 12- Executive control: PMDA is proposed to be run by govt-appointed Grade 22 bureaucrat – this would mean no independence at all and enhanced direct government control of media industry and independent public interest journalism.

## Consequences Of Operationalizing PMDA

The operationalization of the proposed PMDA, as has been advocated by government ministers and officials, will result in the following:

- 1- Formalize focus from regulation of standards to regulation of content – this will mean a practical change in duty bearing of the government to a new mission.
- 2- Weaponize content regulation – this will happen through fines and jail terms and expanding the list of 'don'ts' on reporting – more don'ts will mean more censorship opportunities for the government in the name of alleged hate speech, incitement to rebellion, criticising the head of state and parliamentarians, demoralizing the armed forces, etc.
- 3- Bring all citizens in regulatory ambit – by including internet and digital media into its jurisdiction, the regulatory framework will extend from media entities to all citizens.
- 4- Centralize media regulation – the PMDA will result in a one-window manipulation operation, instead of multiple regulatory offices, and thereby result in a 'headquarter of censorship'.
- 5- Greater control of regulatory resources – PEMRA and PTA budgets run into billions of rupees – these budgets will become easier for PMDA to access, easier to spend on censorship and easier to employ for intimidation – thereby resulting in smoother intimidation of media and its practitioners by the state.
- 6- Shift burden of defence from state to journalists/citizens – this will result in counterbalancing the proposed Journalists Safety Protection Law by entangling the targeted journalists and opinion makers in processes to make it costly on them to defend themselves.
- 7- Make intimidation legal – the categoric targeting of media practitioners will shift from illegal physical attacks to legal procedural intimidation and thereby make censorship procedurally coercive.

## Net Likely Outcome And Legacy Of PMDA

- ★ PMDA becomes a political engineering tool to reinforce the intimidation of legacy media (print and electronic) as well as manipulate digital media landscape– the only public interest journalism sector still standing – ahead of the scheduled 2023 elections.
- ★ Pakistan's digital media landscape beyond the 2023 elections will become as muted and devoid of diversity and inclusivity in socio-political narratives as the legacy media landscape and a throttling of Pakistan's political pluralisms and democratic aspirations.





## Chapter VI:

# Impact Of PMDA On Independent Digital Media And Public Interest Journalism

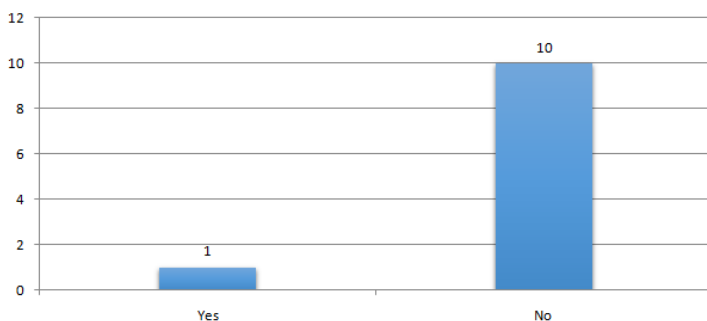
The Digital Media Alliance of Pakistan (DigiMAP) is an alliance of public interest journalism digital media platform representing non-legacy independent digital media sector. In July 2021 it issued a statement rejecting the PMDA proposal and in August it co-signed a major statement with key media, legal and civil society sectors in declaring opposition to the PMDA.

In August 2021 DigiMAP and Freedom Network conducted a snapshot survey of independent non-legacy digital journalism platforms of Pakistan to gauge the range of specific concerns related to the PMDA proposal.

The following are key findings based on responses to a structured survey questionnaire by 11 such members, who are all part of DigiMAP:

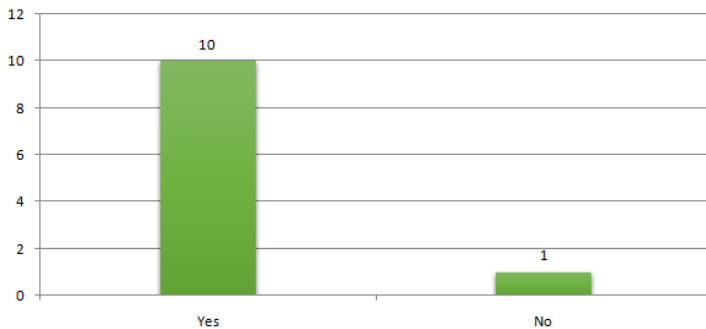
Here are key aspects of the proposed PMDA with reference to its impact on online media and journalistic freedom.

### 1. Should there be a single regulatory authority for all kinds of media in Pakistan – including print, electronic, digital and films?



Most of the respondents (10 out of 11) disagreed that there should be a single regulatory authority for all kinds of media of Pakistan including print, electronic, digital and films. This indicated an overwhelming opposition to centralised media regulation.

## 2: Is the proposed establishment of PMDA a troubling development for media in general and for digital media in particular?



Most of the respondents (10 of 11) replied that idea of PMDA through merger of existing separate mediums is a troubling proposal for media landscape in Pakistan in general and for the digital media landscape in particular. This indicated an overriding fear that the digital media, in particular, constitutes a specific target of the proposed centralized regulation.

## 3: If established, will PMDA impact negatively on the independent digital journalism landscape in Pakistan?

All the respondents (11) agreed that PMDA, as generally proposed by the Government, will impact negatively independent digital journalism landscape in Pakistan. This represents a groundswell of fear that public interest journalism online will face the same kinds of pressures that legacy media faces.

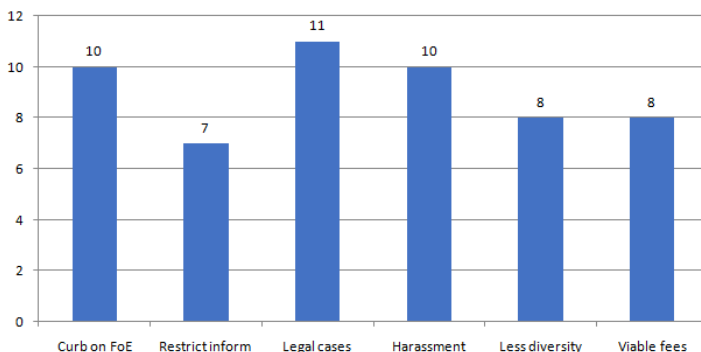
## 4: Will PMDA likely increase the powers of the authorities to over-regulate the digital journalism sector in Pakistan?

All the respondents (11) stated that PMDA will increase the powers of the authorities to over-regulate the digital journalism sector in Pakistan. This indicates the prevalent perception among non-legacy independent public interest journalism platforms online that over-regulation will bring adverse circumstances to bear on their work.

## 5: Which challenges will independent digital media face if PMDA is established?

A big majority of the respondents feared the following challenges to independent digital media if PMDA were established:

- ★ Stricter curbs on individual freedom of expression
- ★ More restrictions on access to information
- ★ Greater vulnerability of digital journalists & platforms becoming open to legal cases
- ★ Greater harassment and intimidation of relevant authorities like FIA
- ★ Reduced diversity and pluralism of views and perspectives of people
- ★ Greater viability/sustainability risks through licensing fees, annual fees, fines, etc.

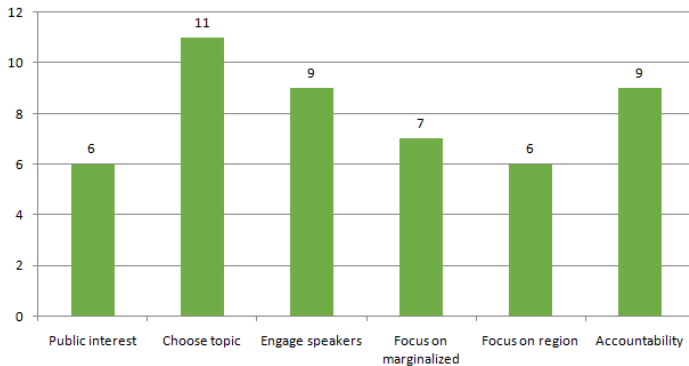


All the respondents (11) replied greater vulnerability of digital journalists and platforms becoming open to legal cases as a major challenge. Ten (10) respondents said that 'stricter curbs on individual freedom of expression' and 'greater harassment and intimidation of relevant authorities like FIA' will also be the challenges. Eight (08) respondents replied that reduced diversity and pluralism of views and perspectives of people and greater viability/sustainability risks through licensing fees, annual fees, fines, etc. will be among the challenges. Seven (07) respondents said that more restrictions on access to information will be another challenge.

## 6: Which specific professional challenges will independent digital journalism platforms face if PMDA is established?

A big majority of the respondents feared the following professional challenges that independent digital journalism will face if PMDA were established:

- ★ Ability to specialize in public interest journalism
- ★ Freedom to choose topics and generate content related to them
- ★ Ability to invite any one to speak or present their views in content generated
- ★ Capability to focus on specific communities, especially marginalized groups
- ★ Competence to focus on any geographic region in the country for coverage
- ★ Mandate to hold authorities accountable on their shortcomings

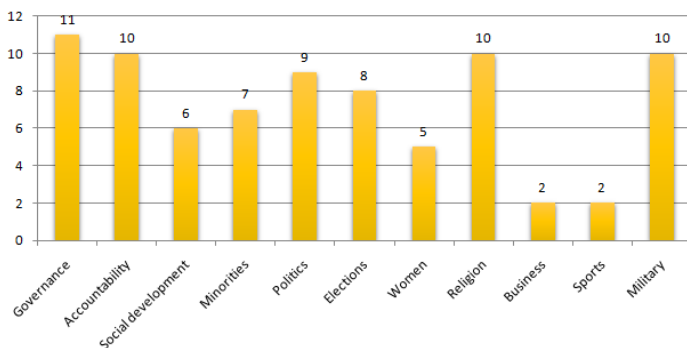


All respondents (11) replied that freedom to choose topics and generate content related to them will be a major challenge. Nine (09) of the respondents said that 'ability to invite any one to speak or present their views in content generated' and 'mandate to hold authorities accountable on their shortcomings' will be the major challenges. Seven (07) of the respondents replied that "capability to focus on specific communities, especially marginalized groups" will become a challenge. Six (06) respondents stated that 'ability to specialize in public interest journalism' and 'competence to focus on any geographic region in the country for coverage' will also be the professional challenges to independent digital journalism platform if PMDA is established.

## 7: Which specific topics will independent digital journalism platforms face challenges in covering if PMDA is established?

A big majority of the respondents feared the following challenges to independent digital media if PMDA were established:

- ★ Governance
- ★ Accountability
- ★ Social development
- ★ Minorities
- ★ Politics
- ★ Elections
- ★ Women
- ★ Religion
- ★ Military
- ★ Militant Organizations

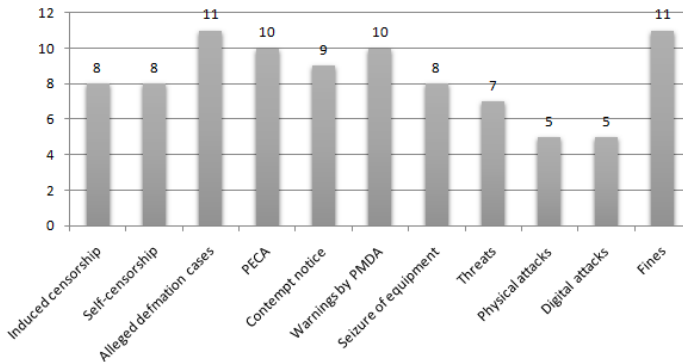


All of the respondents (11) stated that coverage of 'governance' will be a serious challenge. Ten (10) of them said that coverage of issues relating to 'accountability, religion, and military' will become the challenge. Nine (09) of them said that it will also be problematic to cover 'politics.' Eight (08) mentioned that coverage of elections will become difficult. Seven (07) of them stated that coverage of issues of minorities will become a challenge. Six (06) respondents added that social development will also be difficult to cover.

## 8: What kinds of impact will online spaces result from centralization of media regulation, as proposed by establishment of PMDA?

A big majority of the respondents feared the following professional challenges that independent digital journalism will face if PMDA were established:

- ★ Induced censorship
- ★ Self-censorship
- ★ Legal cases for alleged defamation
- ★ Increased use of PECA law
- ★ Contempt notices by courts
- ★ Notices/warnings/actions by PMDA
- ★ Seizure of equipment
- ★ Threats
- ★ Physical attacks
- ★ Digital attacks
- ★ Financial burden/fees/fines, etc.



All respondents (11) marked increase in legal cases for alleged defamation, and financial burdens/fees/fines, etc. as overall impact of centralization of media regulation. Ten (10) of respondents replied that increased use of PECA law and notices/warnings/actions by PMDA will also have main impact. Nine (09) respondents said contempt notices by courts will be another issue. Eight (08) of the respondents said that induced censorship, self-censorship, and seizure of equipment will be the overall impact of the new media regulations.





## Chapter VII:

## Conclusion

## Consequences Of Operationalizing PMDA

The following conclusions can be drawn from this study:

- 1- **There is popular rejection of and no support for PMDA:** A detailed analytical review of leaked texts of the proposed PMDA, statements of ministers and other official functionaries, survey of independent digital journalism platforms, including DigiMAP, fears expressed by media representative associations, including PFUJ, AEMEND, CPNE, PBA and APNS, major political parties including Pakistan People's Party (PPP), Pakistan Muslim League-N (PML-N), Jamiat Ulema Islam (JUI), Jamaat-e-Islami (JI), Awami National Party (ANP) and others, civil society and legal fraternity organizations like Human Rights Commission of Pakistan (HRCP) and Pakistan Bar Council (PBC), as well as international media watchdogs like RSF, IFJ, CPJ, FH and others and national media development organizations and digital rights groups like Freedom Network (FN), Institute for Research, Advocacy and Development (IRADA), Digital Rights Foundation (DRF), Media Matters for Democracy (MMfD), BoloBhi and others make it clear that the proposed PMDA is widely opposed and rejected as a draconian attempt to impose 'media martial law'.
- 2- **Establishment of a 'headquarter of censorship' will undermine democracy:** The proposed PMDA is widely expected to:
  - ★ Result in centralizing censorship practices by creating a new 'headquarter of censorship'
  - ★ Further restrict the environment for freedom of expression and right to information otherwise guaranteed in Articles 19 and 19-A of the constitution
  - ★ Discourage diversity of voices and opinions in media
  - ★ Blunt inclusivity of Pakistan's socio-political pluralisms in socio-political media narratives
  - ★ Deter the media from serving its mission of being the guardian of public interest by holding the government and its power bearers accountable.

These will have the cumulative effect of undermining Pakistan's democratic polity and aspirations.

- 3- **Public interest independent digital journalism will be decimated:** After sustained crackdown on legacy media, including print and electronic, Pakistani socio-political pluralism and journalism practices, as well as audiences have been migrating online. This online space – the only civic space for citizens to express their rights to freedom of expression and access to information – will be severely undermined and manipulated into eventual silence and strangulation by the proposed PMDA. This poses a serious threat to the emerging ecosystem of independent public interest digital journalism online.
- 2- **Media reforms and making existing media regulators independent urgently required:** All the above-mentioned media sector, political classes, civil society, rights groups and citizens alike near-unanimously reject the idea of PMDA and call upon the government to permanently shelve it. Instead, they demand that all existing media related laws, including those relating to regulators, be reformed and brought in consonance with national constitutional guarantees and international best practices. They also demand that an immediate end be put to demonization of media, harassment of journalists and crackdown on freedom of expression.

## NOTES



# FREEDOM NETWORK – A Brief Profile

Freedom Network is an award-winning Pakistan-based independent media and civil liberties organization registered with the Securities and Exchange Commission of Pakistan (SECP). It was awarded the French Human Rights Award in 2017 by the Government of France for standing out in defending freedom of expression and human rights agendas in Pakistan.

**FN Vision:** To defend and promote civil liberties by championing and assisting an informed society that sees media as a key partner in an open, democratic, pluralist and inclusive Pakistan.

**FN Mandate:**

- DEFEND and promote *freedom of expression*
- STRENGTHEN *safety* of journalists, information practitioners and rights activists
- FACILITATE *media professionalisms* including independent digital *public interest journalism*
- SUPPORT *gender mainstreaming and pluralism* in media.

**FN Background**

Established in 2013, Freedom Network initially began as a voluntary online effort by a group of friends to advocate for safety of journalists but due to overwhelming response from a variety of stakeholders supporting its advocacy, it was registered as a legal entity with its work becoming formalized in line with best practices. Since then Freedom Network has emerged as Pakistan's premier watchdog on freedom of expression and media professionalism issues through its hard-nosed research, advocacy and capacity building programs.