

Law on Mass Media and Freedom of Information

Draft Presented for Discussion

Translated from the Ethiopian government-issued Amharic version by Loyal Translation and Secretarial Service (Yoseph Endeshaw)

3 December 2007

Note: This is an unofficial English translation of the draft law.

Proclamation No. ___/2007

A Proclamation to Provide for the Freedom of the Mass Media and Information

WHEREAS freedom of expression and freedom of mass media are guaranteed by the Constitution of the Federal Democratic Republic of Ethiopia;

RECOGNIZING that the Constitution has guaranteed protection from censorship so that mass media organizations can operate in freedom;

REAFFIRMING the Constitutional principle providing that freedom of expression and free operation of the mass media may be subject only to such limitations as are clearly prescribed by law (and are necessary to protect public safety and other fundamental rights);

RECOGNIZING the need to sustain and further strengthen our positive and constructive experience relating to freedom of expression and mass media in removing obstacles to the free exchange of information among citizens and institutional and structural problems hampering the free operation of mass media;

REALIZING that efforts to build a democratic system in our country can be successful only if there are free and multi-faceted mass media organizations capable of playing an irreplaceable role and operating with institutional integrity and high level of professional conduct;

REALIZING that the mass media protects and promotes respect for constitutionally recognized freedoms and rights as well as peace, equality, justice and democracy;

RECOGNIZING the rights of the mass media, including those that are critiques, to gather and disseminate information;

RECOGNIZING the importance of a healthy information system that facilitates the free exchange of information and ideas among citizens and a mass media capable of creating convenient forums for unrestricted democratic discourse among the public for ensuring the full realization of the rights of citizens to gather, receive and disseminate information;

REALIZING the fundamental benefits of transparent governance especially the right of individuals to obtain information from government bodies in a democratic society;

To impose legal obligations on government officials to provide information to the mass media and to individuals with a view to enhancing and further strengthening the values of transparent and accountable governance recognized in the Constitution as well as to facilitate open public discussion on matters of public interest;

RECOGNIZING the need to amend and replace the existing press law with a new law more consistent with democratic changes taking place in Ethiopia;

NOW, THEREFORE, in accordance with article 55/1/ of the Constitution of the Federal Democratic Republic of Ethiopia, it is hereby proclaimed as follows:

PART ONE

GENERAL

Article 1: Short Title

This Proclamation may be cited as “Mass Media and Freedom of Information Proclamation No. _
_____/2007”

Article 2: Definitions

In this Proclamation, unless the context requires otherwise:

1. “**Mass Media**” shall mean any publication including periodic publications and broadcasts;
2. “**Publication**” shall include mass media as well as music, audio, visual or audiovisual works, pictures, theatrical performances, cartoons, books, pamphlets, films, posters, commercial advertisements and any other publications with the intent to disseminate such to the public;

3. “**Periodical**” shall mean any publication issued under the same name and published at least twice a year with the intention of continuous issuance at regular time intervals, having general distribution, and targeting the whole society or a specific section of the society including newspapers and magazines;
4. “**Broadcaster**” shall mean a person transmitting broadcast programs for a fee or without fees to be heard, seen or listened to by the public at the same time using land transmitters, cables, satellite or similar means through radio or television broadcast receivers or other electronic receivers, not including internal communications within private institutions or the government;
5. “**Government Body**” shall mean an institution established by the federal or regional Constitution or under any other law, or found at any level of the federal or regional government structure, or is under the ownership of the federal or regional governments, or receiving its major source of finance directly or indirectly from these bodies, or accountable to the federal or regional governments;
6. “**Information**” shall mean any document organized in any form;
7. “**Document**” shall include:
 - a. Any written record or file including handwritten and machine written drafts;
 - b. Any microfilm, microfiche and electronic copies of records;
 - c. Copies of microfilm records whether developed or not;
 - d. Information seen, read, heard, or recognized with the help of a computer or any other equipment; or
 - e. Any information found in any form or means of transmission.
8. “**Editor-in-Chief**” shall mean the person having full editorial authority to make a decision on the contents of a periodical as provided under article 5.

9. **“Publisher”** shall mean any person representing a mass media organization or owner of a mass media organization, having substantial ownership interest in a mass media organization or leading the administration of a mass media organization;
10. **“Printer”** shall mean any person appointed by the publisher or that has entered into contractual agreements with the publisher to print a publication;
11. **“Distributor”** shall mean any person appointed by the publisher or that has entered into contractual agreements with the publisher for the wholesale or retail distribution of a publication;
12. **“Importer”** shall mean any person importing mass media products into the country with intention of distributing such products within the country or is an agent for foreign publications distributed in the country;
13. **“Person”** shall mean a physical or juridical person;
14. The provisions of sub-article 1 shall not be applicable to:
 - a. Official press releases, advertisements, proceedings, reports and decisions issued by legislative, judicial and executive bodies;
 - b. Forms, price schedules, commercial and family advertisements, and postcards printed for commercial and transportation services, household utilization and social purposes, and pictures duplicated for sale, commercial and administrative annual reports and election documents;

Article 3: Freedom of Mass Media

1. The freedom of mass media has been recognized in the Constitution. Censorship is forbidden in any form.
2. The freedom of mass media may only be limited by laws promulgated on the basis of the Constitution.

3. Government bodies should take into consideration the rights of mass media to:

- a. Gather and disseminate news;
- b. To present opinions and critics on different issues;
- c. To participate in forming public opinion through other means

in conducting their social activities.

4. Unless there are specific laws to the contrary, administrative measures hampering freedom of mass media are forbidden.

Article 4: Freedom of Publication and Association

1. Without prejudice to the provisions of article _____, any Ethiopian citizen has the right to engage in mass media activities.
2. Journalists have the right to organize in professional associations of their choice.

PART TWO

RIGHT TO ENGAGE IN MASS MEDIA ACTIVITIES

Article 5: Editor-in-Chief

1. The powers of a person appointed as editor-in-chief of a mass media organization shall include controlling the contents of publications and ensuring that nothing is published without his permission. Any procedure or agreement limiting this power is null and void under the law.
2. Whenever the editor-in-chief of a mass media product lacks full legal capacity for whatever reason, a chief editor with full legal capacity should be appointed.

3. Notwithstanding the provisions of sub-article 1, the Editor-in-Chief appointed as per sub-article 2 shall be fully responsible for the contents of the mass media product and has the power to ensure that nothing is published without his permission.

Article 6: Ownership of Mass Media

1. No person having direct or indirect effective control in the total capital or shares of a company registered to provide broadcasting services nationally or in an area or region with more than 100,000 registered residents may have either direct or indirect effective control in the total capital or shares of another company holding a similar license and providing broadcasting services in a similar or overlapping market area.
2. No person having direct or indirect effective control in the total capital or shares of a company registered to provide broadcasting services nationally or in an area or region with more than 100,000 registered residents may have either direct or indirect effective control in the total capital or shares of another company engaged in the publication of periodicals in a similar or overlapping market area.
3. No person having direct or indirect effective control in the total capital or shares of a company engaged in the publication of periodicals may have either direct or indirect effective control in the total capital or shares of another company engaged in the production of publications in the same language and in a similar or overlapping market area.
4. The procedures and standards for the determination of effective control indicated under the provisions of sub-articles 1 to 3 will be promulgated by law.
5. For the purpose of implementing article 4/1/, a company is considered an Ethiopian company where the sources of the company's capital are completely Ethiopian and all shareholders in the company are Ethiopians. It shall not include a company in which one of the shareholders is an organization having foreign nationals as members. Similarly, an association is considered a local association where the sources of its finances are completely local and its leaders and members are Ethiopians.

6. No person other than a body or organization that has legal personality may engage in broadcasting services, publication of periodicals, or news services.
7. The provisions of this article shall apply to foreign mass media imported into Ethiopia for the purpose of dissemination in the country and mainly focusing on national issues.

Article 7: Distributors

Organizations engaged in the distribution of periodicals may not discriminate in the provision of services or set different fees based on the contents of the publications.

Article 8: Certificate of Registration for Periodical

1. Any one prepared to engage in the publication of periodicals may receive a certificate of registration from the Ministry of Information where the distribution of the publication covers more than one region or from the Regional Information Bureau where the distribution of the publication is limited to one region.
2. Where any organization or government office wishes to publish a periodical publication to promote its objectives or to carryout its legal mandate, it shall be considered to have been registered as per sub-article 1.
3. The application for registration shall include the following:
 - a. Name and address of the publisher, addresses of branch offices if any; and
 - b. Names and addresses of persons having shares of more than 2% in the organization and the amount of their shares.
4. Where an application for registration certificate to publish a new periodical with the same or similar name or logo as a previously registered periodical is received and the similarities between the two publications are likely to cause mistakes, the periodical shall be registered with another name or logo.

5. Where changes are made to the conditions under sub-article /2/, the publisher shall inform the registering body within 15 days of such changes.
6. A registration certificate may be revoked where:
 - a. In the case of periodicals, when the publisher declares the cessation of its activities in writing;
 - b. where the person given certificate of registration for a periodical has not started to issue the publication within one year from the time of registration.
7. The provisions of this article will also be applicable to article 8/2/ as appropriate.

Article 9: Information on Publications and Courtesy Copies

1. Every periodical publication shall clearly indicate the names and addresses of the publisher, printer and editor-in-chief, the volume and issue number of the publication, the time interval for publication, and the date and year of publication on every copy of the publication.
2. Every broadcaster shall state the name and program of the station and the person in charge of the programme at the beginning and end of each program.
3. Two copies of each issue of every periodical prepared for dissemination in Addis Ababa or for nationally should be given free of charge to the National Archive within twenty four hours of publication.
4. Where the dissemination of the periodical is limited to one region, two copies of each issue should be given free of charge to the regional archive or Culture Bureau within twenty four hours of publication.

PART THREE

THE RIGHT TO INFORMATION

Article 10: Objective

The provisions of this part have the objective of:

1. Implementing the right to request and receive information from any government body without prejudice to appropriate limitations promulgated to protect comparable public and private interests;
2. Implementing the right by establishing procedures and a system wherein those seeking information can receive information swiftly, at minimum cost and without inconvenience; and
3. Strengthening operational transparency, accountability to the public and effectiveness in government activities.

Article 11: Right to Seek and Receive Information

1. Unless otherwise provided in this proclamation, every person has the right to request and receive information from any government body and disseminate the same.
2. The right provided under sub-article 1 includes the right to ask and ascertain whether or not the information or a file containing the information is in the possession of a government body and to:
 - a. Look at or take notes or copy quotations from the file;
 - b. Receive authenticated copies from the concerned government body;
 - c. To take copies in compact discs, floppies or any other electronic form, or, where the file is on a computer or other equipment, to take printouts from such equipment;
3. This proclamation may not be interpreted to limit the mandate of government bodies to give information through procedures other than those stipulated in the proclamation when they find it appropriate.

Article 12: Obligation to Publish

1. Every government body should publish details on:
 - a. The structure, organization, major mandates and responsibilities of the office;
 - b. The powers and responsibilities of officials as well as the procedures applicable in decision-making;
 - c. Details of services provided to the public;
 - d. Compliant procedures available to the public and brief reports of the responses of the office to questions or complaints recurrently raised by the public;
 - e. Brief explanations on the kinds of files in its possession and the information in the files as well as detailed explanations on the procedures to be followed by persons seeking information;
 - f. A list of the files containing the code of conduct for the office, rules governing the activities of the different sections of the office, policies, directives, manuals as well as amended or repealed directives;
 - g. Directives, regulations, briefings and other documents governing the activities of employees of the office;
 - h. The name and address of the public relations official or persons conducting similar tasks;and other details.
2. Where necessary, [every government body] should at least annually issue a publication containing changes and provide a copy of the publication to any person immediately upon request or allow such person to look at the publication. However, every government body should not include matters that should not be disclosed as per the provisions of part three of this proclamation regarding restricted information.

3. Every government body should:
 - a. when disclosing important policies and decisions affecting the public interest, issue a comprehensive publication of information related to the decisions;
 - b. provide a copy of the publication to any person immediately upon request or allow such person to look at the publication including the dissenting opinion where there is a dissenting opinion in making administrative, judicial or judicial related decisions;
 - c. publish information on issues related to the project or notify the general public or those affected or those who may be affected as per the principles of transparency and accountability before implementing any project.

Article 13: Requests for Information

1. Any person seeking information should submit the request to the public relations official or persons conducting similar tasks by filling the request form prepared in each office specifically indicating the information sought in writing or through readable electronic means.

Where the person seeking information is illiterate or cannot submit the request in writing due to disability, the public relations official has the duty to assist by filling the prepared form.

2. It is forbidden to compel any person requesting information to disclose the purposes of the request.
3. The public relations official or persons conducting similar tasks who has received a request for information under sub-article 1 should provide the information sought as soon as possible subject to fees set by the office.

However, he should provide the requested information to the applicant for payment within 30 days not including weekly rest days and public holidays or respond in writing

indicating refusal based on the provisions of this proclamation on restrictions and explaining the applicant's right to appeal.

4. Where it is decided that the applicant should receive the information upon payment of the required fees, the public relations official or persons conducting similar tasks should notify the applicant on the details of the amount of fees and procedures for payment in writing. The period between the time at which the notice was sent and the time of payment shall not be included in the 30 day period provided under the previous sub-article.
5. Failure to respond to the request for information within the indicated time shall be taken as refusal.
6. Unless it causes undue wastage of the human and material resources of the government body or obstructs the performance of its regular duties or causes a risk to the protection of the file, the information should be provided in the form requested by the applicant.
7. Every official or employee of a government body has the duty to cooperate when information is requested by the public relations official or persons conducting similar tasks.
8. Notwithstanding the provisions of article 12 of this proclamation, the public relations official or persons conducting similar tasks may deny a request for information where:
 - a. the request is submitted in a general manner and the amount of information requested is such that the task of copying or collecting the information would disrupt the utilization of the human and material resources of the office or obstructs the performance of its regular duties; or
 - b. the applicant has failed to correct the request submitted in a general manner though the public relations official has properly undertaken his duty to assist the applicant to correct the general request in an acceptable form; or

- c. there is a proclamation, regulation, directive or order requiring the publication of the information at a set time and the information could be published within 30 days from the date of the request; or
 - d. the information is included in publications issued for dissemination for the general public.
- 9. The public relations official receiving a request for information available in the files of the office may extend the thirty day period indicated under article 13/3/ to a period not more than sixty days where:
 - a. the office has been swamped by a large number of similar requests for information and it is not possible to provide the requested information within thirty days; or
 - b. collecting and organizing the requested information requires referring to a large number of files available in branch offices located in different cities/towns;
 - c. it is appropriate or necessary to consult with various departments within the office or with other offices and it is not possible to provide the requested information within thirty days as a result;
 - d. the applicant himself expresses willingness to accept the extension in writing.
- 10. Notwithstanding the provisions of sub-article 2, every government body is required to respond to requests for information for an urgent matter within ten days at the latest.
- 11. Without prejudice to determination of other matters as emergency or urgent situations by government bodies on the basis of directives, an emergency or urgent situation is considered to exist where:
 - a. the application shows the existence of concrete reasons indicating imminent danger to human life or bodily integrity unless the information is provided urgently; or

- b. an applicant whose main activity is disseminating information to the public has submitted a request relating to alleged actions of a government body that the public should be urgently informed of with concrete and rational basis.
 - c. Where the public relations official believes that the request for information submitted as per /a/ and /b/ of this sub-article is not urgent, he should provide his response within the period mentioned under sub-article 10 indicating the possibility of administrative appeal by the applicant.
 - d. A Court may not entertain on appeal a matter responded to as per /c/ above.
12. The fees to be paid under sub-article 4 above to receive information should not exceed the necessary costs of searching for, collecting and duplicating the file containing the information and should not be requested from applicants requesting personal information and those lacking capacity to pay.

Article 14: Restricted Information

- 1. The right to receive information indicated under article 11 of this proclamation cannot be obstructed by any legal restrictions on the disclosure of information other than the limitations promulgated under this part.
- 2. The classification of information not covered under the provisions of this part on restricted information as secrets by government bodies cannot alone preclude the implementation of the right to receive information recognized by this proclamation.

Article 15: Information Relating to Third Parties

Any public relations official:

- 1. May deny a request for information submitted to him where it would cause the disclosure of personal information on a third party, including a person no longer alive, without sufficient cause.

2. Information relating to third parties may not be denied under sub-article 1 and the requested information should be provided where:
 - a. the third party has not objected to disclosure of the information as per article 18 or has agreed to disclosure of the information to the applicant in writing;
 - b. the third party who provided the information has been previously informed that the information will be disclosed or may be disclosed to the public by the government body that received the information or the party that received the information on its behalf;
 - c. the information has previously been disclosed to the public;
 - d. the information relates to an individual's mental or physical health or safety and the person the information relates to is under the guardianship of the applicant or has not attained the age of eighteen or cannot understand the nature of the request and providing the information is necessary in the interest of the third party;
 - e. the information relates to a person no longer alive and disclosure of the information was requested by the next of kin or the request for disclosure of the information was made by a person in possession of written permission of the next of kin;
 - f. the information requested relates to a person who is or has been working in a government office including his responsibilities, rank, official title, work address, job description, office phone number and similar details of his address, job assignment, salary and other payments, as well as his official responsibilities, activities he has undertaken on the job, and the name stated in a file filled by the person himself.

Article 16: On the Protection of Commercial Secrets of a Third Party

1. The public relations official should deny a request for information where the requested document:

- a. contains the commercial secrets of a third party;
 - b. though not commercial secrets, contains financial, commercial, scientific and technical information and disclosure of the information may cause harm to the financial and commercial interests of the third party; or
 - c. contains information provided by the third party in the belief that it will not be disclosed to others and disclosure of the information exposes the third party to undue harm in contracts or other negotiations or puts the third party at a disadvantage in a commercial negotiation.
2. A document may not be denied under sub-article 1 where:
- a. it has been disclosed to the public;
 - b. the third party has not objected to disclosure of the information as per article 18 or has otherwise agreed to disclosure of the information to the applicant in writing;
 - c. it relates to experiments and research activities conducted by the third party himself or on behalf of the third party in relation to any product or environmental safety and disclosure of the information is necessary to reveal serious dangers to public safety or environmental safety.
3. The information indicated under sub-article /2/ /c/ does not include information relating to preparatory experiments or other research conducted to enhance experimental or research methods.

Article 17: Protection of Third Party Information Provided in Trust

The public relations official should deny a request for information where the requested file:

1. May cause the office to breach its clear contractual obligations and result in claims by the contracting party against the institution;

2. Relates to information provided by a third party in the belief that it will not be disclosed and disclosure of the information will disrupt receipt of similar information from a similar source in the future and where a government body should regularly receive the information in the public interest.

Article 18: Third Party Information and Intervention

Where the request for information submitted under this proclamation concerns a third party and the public relations official wishes to provide the information to the applicant, he should inform the concerned third party in writing within 5 days of receiving the request indicating the name of the applicant, contents of the requested file, as well as the reasons for disclosing the information and informing the third party to submit any objections or express willingness within 10 days.

Failing to submit objections as requested will result in the application of article 15 /2/ /b/ and article 16 /2/ /b/ of this proclamation.

Article 19: Protecting the Safety of Individuals and Property

The public relations official should not disclose information where:

1. There is sufficient reason to believe that disclosure would endanger life or bodily security;
2. Disclosure would disrupt or hamper the safety of the structure or operations of a building or computer and other communications equipment, or public transportation services, or any other property; or
3. Disclosure would disrupt or hamper systems, plans and procedures designed to protect the safety of a person covered under a witness protection program or the public in general or a section of the public.

Article 20: Protection of Executive and Judicial Functions

1. The public relations official may deny the request for information where the file requested or information the existence or absence of which he is asked to ascertain relates

to methods, techniques, working procedures or practical guidelines to investigate, follow up or prevent a violation of laws already committed or that could be committed, and disclosure of the information may hamper their effectiveness by creating conditions that make it easier to hide from the law or for the commission of crimes.

2. The public relations official should not grant the request for information where the charges against a suspect to whom the information relates are still being prepared, or, though the preparations have been completed, the trial has not started, or the trial is still under way, and disclosure of the information or confirming the existence or absence of the information:
 - a. could disrupt the charges; or
 - b. may cause miscarriage of justice in the examination of the charges;
 - c. may disrupt the fairness and impartiality of the trial.
3. The request for information may not be denied under this article where the file only contains information on the overall situation of the protection of persons detained or imprisoned.

Article 21: On Information Protected by Judicial Procedures

The public relations official or government body may grant requests by a party to a trial relating to information the other party is not required by law to disclose only where the beneficiary of this special right has declined to utilize his right.

Article 22: Defense, Security and International Relations

1. The public relations official should deny a request for information where he has sufficient reason to believe that disclosure of the information requested or the existence or absence of which is requested to be ascertained would cause harm to the defense of the country, peace and security of the state or international relations.
2. The document indicated under sub-article 1 includes:

- a. information relating to missions or military exercises or military tactics or strategies relating to preparations to resist enemy activities and warmongering or monitoring, defending or stopping the activities of belligerent groups;
- b. information relating to the number, kinds, capacity, power, weaknesses, operation, capabilities, movement or use of weapons or other equipment or any other thing designed, forged, enhanced or produced to monitor, defend against or destroy or stop the activities of belligerents enemies;
- c. information relating to the character, qualifications, weaknesses, activities, capacity, capability, missions or operations of any army or army section or its members person responsible to follow up on, control or stop the activities of belligerents or enemies;
- d. methods, scientific or technical equipment for the gathering, evaluation and storage of the information indicated under sub-article 2 /c/;
- e. information relating to the identity of secret informants that are sources for the information indicated under sub-article 2 /a/ of this article and other sources of information;
- f. information provided in the name of the republic or in the name of another government to another international organization or government wishing that its affair be held in secret based on an international agreement or negotiation;
- g. information that is required to be kept in secret under international agreements and international customary law;
- h. positions taken by the government or another foreign government or international organization on international negotiations undertaken or to be undertaken by the country or another government or international organization;

- i. a document containing information relating to exchanges of diplomatic messages with another government or international organization or official exchanges of messages with the country's diplomatic mission or consular offices;

Article 23: Documents of the Council of Ministers

The public relations official should not accept requests to receive information on or ascertain the existence or absence of information found in a document of the Council of Ministers except for information the Council of Ministers decided to be officially disclosed to the public. For the implementation of this article a document is to be considered a document of the Council of Ministers where it:

1. is a document directed to the Council of Ministers or a document required to be presented to the Council of Ministers that a senior official of a government body has caused to be directed to the Council of Ministers; or
2. is an official document of the Council of Ministers;
3. is a duplicate or copy of the documents indicated under sub-article 1 or 2 or contains quotations from these documents; or
4. may make known the decisions or discussions of the Council of Ministers or its committees other than the decisions officially published by the Council of Ministers.

Article 24: Information Relating to the Country's Economic Interests and Financial Security as well as the Commercial Operations of Public Enterprises

1. The public relations official may deny the [request for information] where disclosure of the information or ascertaining the existence or absence of information would endanger the country's economic interests or financial security or would weaken the capacity of the government to administer the country's economy;
2. Without prejudice to the general provisions of sub-article 1 of this article, the information indicated under sub-article 1 includes:

- a. plans to make or not to make policy changes that may affect official bank notes, currencies, legal tenders, valuation of foreign currency or foreign investment;
 - b. plans relating to decisions to change or maintain the regulation of payments of loans or interest rates, customs, excise, taxes or other sources of revenue, the administration and supervision of financial institutions, public loan, payments for goods or services or rent, payment of salaries, other revenues;
 - c. plans relating to the sale or possession of movable or immovable properties or international commercial agreements.
3. Unless the information has been previously disclosed to the public or another government body having ownership of the information has given written permission for disclosure of the information or the information relates to the results of experiments conducted by the government or for the government on products or the atmosphere or result in atmospheric pollution, the public relations official should deny information where the document requested relates to:
 - a. commercial secrets of the government or government body;
 - b. financial, commercial or scientific information that, though not included in commercial secrets, may harm the interests of the government or government body if disclosed;
 - c. may harm commercial competitions of any government body or is found to prevent a government body from benefiting in contractual and other negotiations with others.
4. Without prejudice to the general provisions of [sub-]article /2/ /a/ the information indicated under the article includes agreements made or planned agreements to transfer the shares or interests of a government body to any person not included in the definition of “government body” under this proclamation.

Article 25: Working Documents of the Government

1. The public relations official or government body may refuse [to provide] a government document requested by the information seeker where the document:
 - a. contains [information] covering deliberations, discussions or meetings and other documents including opinions, advice, proposals, or reports, proceedings of meetings presented or prepared to facilitate the implementation of legally assigned mandate, decision-making process or policy design; or
 - b. may hamper the deliberation process within any government body or among different government bodies by restricting the transparent exchange of ideas, consultations, reports, proposals or discussions if disclosed; or
 - c. may bring about a result hampering the success of a policy under preparation or design by causing the untimely disclosure of the policy.

2. The public relations official may deny applications for information where the requested file:
 - a. contains internal operational procedures and guidelines of government offices undertaking control and supervision activities like control, audit, investigation or inquiry techniques and procedures and may disrupt the effectiveness of experimental, investigative and audit procedures and methods of a government body if disclosed; or
 - b. the file contains an evaluation document and disclosure of the information results in breach of direct or indirect promise for the person that the information will not be disclosed or the identity of the informant will be kept confidential, irrespective of whether the identity of the person who provided the information has or has not been stated in the document; or
 - c. the file contains the notes or initial preparations or any other draft of an official of a government body.

3. A file containing information indicated under sub-articles 1 and 3 may not be refused as long as it contains explanations and reasons that should be provided in court.

Article 26: Favoring the Public Interest

Notwithstanding the provisions indicated under articles 15 to 25, the public relations official should not deny requests for information unless the harm caused by disclosure of the information to the protected interests outweigh the public interest served by disclosure of the information.

Article 27: Information Provided Separately

Notwithstanding the provisions of this proclamation, where the request for information was denied due to legal restrictions, the pages of the file containing information that is not restricted may only be provided where it is not difficult to separate those pages that are not restricted from those that are restricted.

Article 28: Language in which Information is Provided

Where the request for information submitted to a government body is granted the applicant will be given the information:

1. in the language of his choice where the information is available in that language;
2. in the language in which the information is prepared where the information is not available in the language of the applicant's choice.

Article 29: Appeal on Denial of Information

1. Anyone aggrieved by the decision of the public information official may submit an appeal to the senior official of the concerned government body within 30 days of the decision;
2. The complaints body may accept complaints after expiry of the period indicated under sub-article /1/ where the appellant can show sufficient cause outside his control for not submitting the application in time.

3. The government body that received the application should give a decision on the application within ten days.
4. Any applicant whose application to the concerned government body as per sub-article 1 has been denied may submit an appeal to the Office of the Ombudsman within 30 days of receiving the decision.

Article 30: Responsibilities of the Office of the Ombudsman

1. [The Office of the Ombudsman] Should publish in the official languages of the government within 18 months of the coming into effect of this proclamation and, in a manner easy to understand for any person who wishes to use the provisions of part three of this proclamation,
 - a. the objectives of the provisions of this proclamation;
 - b. the full names and addresses of public relations officials and their deputies who are covered under the provisions of this proclamation;
 - c. the major functions of each government body;
 - d. the form in which requests for information under article 11 of this proclamation should be submitted;
 - e. the assistance and services made available to applicants for information by public relations officials under this proclamation;
 - f. the assistance or services made available to applicants for information by the Office of the Ombudsman under this proclamation;
 - g. legal remedies available where the rights and obligations indicated under part three of this proclamation have not been respected;
 - h. procedure for the submission of administrative appeals;

- i. on the submission of applications submitted to courts on the decisions of public relations officials or senior officials of government bodies;
- j. information required to be published by government bodies under this proclamation and explanations on accessing such information;
- k. requests requiring the payment of fees and those partially or fully exempted from the payment of fees;
- l. implementation directives and explanations to enable uniform application of the provisions of this part by public relations officials;

in the official working languages of the government within 18 months of the coming into effect of this proclamation.

2. In addition to the powers and responsibilities granted under this proclamation, the Office of the Ombudsman should to the extent possible:
 - a. follow up on the implementation of the duties imposed by the provisions of this part on government bodies based on reports received by the office pursuant to article 34 /1/ and submit reports to the House of Peoples' Representatives;
 - b. submit general and detailed proposals to government bodies to enhance and improve procedures for the implementation of the provisions of this part of the proclamation.;
 - c. organize and facilitate training workshops for public relations officials on the right to information and the effective implementation of the provisions of this section;
 - d. publicize the requirements and rights of individuals under this section;
 - e. submit annual reports on the implementation of this proclamation to the House of Peoples' Representatives based on reports submitted to the office pursuant to article 34 /1/;

- f. make decisions relating to government bodies which, due to the characteristics of their functions, should jointly publish the information required under the provisions of this proclamation or share publication costs or whose publication costs should be covered by another government body;
 - g. prepare compiled briefings on the utilization of this proclamation;
 - h. submit proposals to improve, strengthen and enhance the provisions of this proclamation to the House of Peoples' Representatives;
 - i. undertake other activities necessary for the implementation of the provisions of this section.
3. The Office of the Ombudsman has all the powers necessary to undertake the activities assigned to it under this proclamation and will receive the additional budget for its activities from the House of Peoples' Representatives.
4. The Chief Ombudsman shall submit annual reports to the House of Peoples' Representatives.

Article 31: Administrative Appeal

1. In examining applications of appeal submitted to it under article 29 /4/ the Chief Ombudsman may request submission and examine any document in the possession of government bodies except documents certified as restricted under article 33. In doing so, the Chief Ombudsman has the duty to ensure that information restricted under this proclamation is not disclosed.
2. The Chief Ombudsman should give a decision on an application for appeal submitted under article 29 /4/ within 30 days.
3. The Chief Ombudsman has the power to reject the appeal or cause the government body to release the requested information or take any measure necessary to fulfill the duties imposed under this proclamation.

Article 32: Judicial Appeal

1. Any person aggrieved by the decision of the Chief Ombudsman may submit the appeal to the Federal First Instance Court where the information concerns a federal government body or to the Regional High Court where it concerns a regional government body within thirty days.
2. The Court having received the application for appeal may examine any document except documents certified as restricted under article 33. The submission of these documents to the Court may in no condition be refused.
3. In conducting its investigations the Court may not disclose information restricted under the provisions of this proclamation. Where the Court deems it necessary not to disclose such information, it may receive evidence or hear arguments in the absence of the applicant or his representative.
4. The Court should render a decision on an application for appeal within 30 days. In addition to the decision on the issues, the Court may also issue orders on costs and damages.

Article 33: Issuance of Certificate

1. Where the information requested or whose existence or absence is requested to be ascertained relates to national security, defense or international relations, officials of government bodies may issue a certificate confirming that the information requested is covered under the restrictions of article 22 of this proclamation and disclosure of the information can cause imminent danger on national security.
2. Notwithstanding the provisions of this part, neither the Chief Ombudsman nor the Court have the power to investigate whether or not the certificate issued under sub-article 1 was issued properly or not.
3. An authenticated copy of a certificate issued by an official of a government body under sub-article 1 should be sent to the House of Peoples' Representatives within 30 days of

the date of issuance. The House of Peoples' Representatives has the power to approve or cancel the certificate.

Article 34: Duty to Report

1. The public relations official of each government body should submit the office's documents and an annual activity report on activities undertaken to implement this proclamation to the Office of the Ombudsman before June 7 (Guenbot 30).
2. The report to be prepared pursuant to sub-article 1 shall include:
 - a. the number of requests for information submitted to the office;
 - b. the number of requests for information partially and wholly granted;
 - c. the number of requests for information partially or wholly denied;
 - d. internal appellate remedies given within the office and the number of requests for information granted based on such remedies;
 - e. the number of appeals submitted to the Office of the Ombudsman and results of the decisions;
 - f. the number of appeals submitted to the Court and results of the decisions;
 - g. other matters to be determined by law.
3. Every government body should include the report indicated under sub-article 1 in the annual activity reports submitted to the Council of Ministers and the House of Peoples' Representatives if it is a federal government body, or to the Regional Council and Regional Executive Council if it is a regional government body;

Article 35: Mandate to Issue Regulations

The Council of Ministers may issue regulations on:

1. A schedule of fees for different categories of information and detailed conditions for the reduction of the fees or provision of information free of charge;
2. The protection of restricted information or cessation of restrictions on such information; and
3. Any matter necessary for the observance of the provisions of part three of this proclamation.

Article 36: Safekeeping of Documents

1. The Office of the Ombudsman, in consultation with concerned parties, shall issue operational directives on the safekeeping, management and destruction of documents and issue amendments to make the directives compatible with the time.
2. Every government body has the duty to manage documents in its possession in accordance with the operational directives.
3. Every government body has the duty to prepare adequate procedures for the updating of private information.

Article 37: Miscellaneous Matters

1. No civil or criminal liability shall result on any person for actions performed in good faith in the implementation of the duties and responsibilities provided under part three of this proclamation.
2. The exemption of any person from legal or administrative penalties for disclosing information relating to offence causing serious damage to public health, security or environmental safety in violation of official responsibilities shall arise only where he had reasonable belief on the truthfulness of the information and that it may result in serious damage to public health or safety.

3. For the purposes of sub-article 2 offence shall mean criminal act, failure to perform legal duties, misleading justice, corruption, fraud, unlawful use of authority or serious misconduct.
4. Any person who, with the intent to violate the rights to receive information;
 - a. destroys, damages or cancels and erases;
 - b. hides, mischievously refuses; or
 - c. falsifies or forgesa file is punishable with fine or imprisonment for not more than two years upon determination of guilt in a judicial process.
5. The public relations official may only reject an application to receive information relating to an event, action, occurrence or performance that happened more than 25 years before submission of the application only where the information is covered under articles 15, 16, 17 and 22 of this proclamation.
6. It is forbidden to restrict information for the purpose of covering up corruption or other illegal actions, inefficiency in the performance of duties, personal or organizational scandals.

PART FOUR

RIGHTS AND DUTIES OF MASS MEDIA

Article 38: Right to Correct or Respond

1. A person whose honor and good name has suffered through a factual report in a mass media outlet has the right to respond in the same mass media outlet free of charge;

- a. The editor or the person delegated by him has the duty to publish the response within three days if it is a daily newspaper, within 9 days if it is a weekly newspaper or in the next issue of the publication if it is another publication;
 - b. Where the report on which the response is based was transmitted in a television or radio program, the editor has the duty to transmit the response without editing and free of charge in the next part of the program or in a similar program within 14 days of receiving the response;
 - c. The response should be related to the report, appropriate and of legal content;
 - d. Where the report was disseminated at the time of elections, the 3 day period indicated under sub-articles /a/ and /b/ shall be reduced to 24 hours and the 14 day period to 48 hours;
 - e. The provisions of sub-article 1 /a/ will be applicable only where the response was received by the press not less than six hours before the publication or program in which the response is to be issued has been sent for printing or due to be aired.
2. Any person deprived of the right to respond may petition the Court to compel the editor or the publication or program to issue the response.
 3. The Court having received the petition shall render a decision within 10 days. However, where the petition was submitted at the time of elections, the Court shall render a decision on the issue within 24 hours.
 4. The Court may impose penalties where the person responsible under the provisions of the Criminal Code is not willing to issue the response.
 5. The provisions of this article do not preclude the application of article 2049 of the Civil Code.

6. The provisions of sub-articles /1/ through /5/ of this article will only be applicable where the request to respond has been submitted to the press within three months from the publication of the press product leading to the grievance.
7. The provisions of this article will similarly be applicable to the right of any person to cause the correction of press reports concerning him and that are factually incorrect.

PART FIVE

TAKING LEGAL MEASURES

Article 39: Liability

1. The mass media organization may be jointly liable with persons liable for crimes committed or civil damage [caused] through mass media under article 43 of the Criminal Code.
2. Where civil proceedings relating to defamation through mass media have been instituted fines of up to 5000 (five thousand) Birr may be imposed in the case of a mass media organization established for non-profit purposes taking into account the gravity of the damage into consideration, and fines of up to 100,000 (one hundred thousand) Birr may be imposed in the case of a mass media organization established for a profit taking into account the gravity of the damage into consideration.
3. Where there is conflict between the provisions of parts five and six of this proclamation and the provisions of the Criminal Code, the provisions of this proclamation shall be implemented.
4. Civil proceedings for damages caused through the mass media may be instituted even if the criminal charge has been barred by a period of limitation or has been dropped.

Article 40: Taking Measures of Suspension

1. Notwithstanding the provisions of other laws, a periodical may not be suspended except under the provisions of this article.

2. According to the circumstances of the case, the Federal or Regional Public Prosecutor may order that a publication not be disseminated where he has sufficient reason to believe that a mass media product which is about to be disseminated may cause present and imminent danger to national security and is punishable and not retractable after dissemination.
3. The Public Prosecutor may give an order for the suspension of the mass media where a court order cannot be secured timely to prevent the damage due to the urgent circumstances of the case. However, the Public Prosecutor should inform the Court within 48 hours where an order suspending the dissemination of a mass media product has been issued. The Court should communicate whether or not it will uphold the measure through a ruling within 24 hours of receiving the Public Prosecutor's communication of suspension.
4. The Court, upon receiving the order given by the Public Prosecutor to suspend the mass media product shall;
 - a. where it finds that the mass media product causes serious damage, uphold the order of the Public Prosecutor and order the Public Prosecutor to initiate charges or apply for the confiscation of the mass media product within two weeks from the time of the Public Prosecutor has taken suspension measures. If the Public Prosecutor fails to act according to the order, the Court will lift its order for the seizure of the mass media product and the suspension of dissemination;
 - b. where it finds that the mass media product does not violate the law and does not cause serious damage, [the Court] may reverse the suspension orders given by the Public Prosecutor and order the release of the suspended publication.

The order given by the Court will be executed within 72 hours from the time the order was issued unless such order is suspended by the appellate court.

5. Where criminal charges have been instituted against a mass media or applications for confiscation of its product have been submitted, the Court may decide that the mass

media product be seized and the publication of subsequent issues be suspended as necessary or the mass media product be confiscated or reverse its decision to suspend the press product under sub-article 3.

6. Where a crime has been committed through a publication and the person liable under the Criminal Code could not be found, the injured party or the Public Prosecutor may apply to the Court for the confiscation of the publication rather than instituting criminal charges. A similar application may also be submitted where summons cannot be served within the country on the person liable for the crime.
7. Where the Public Prosecutor cannot institute the charges within the period indicated under sub-article 3 due to the nature of the matter subject to suspension or any other sufficient cause, the Court may extend the period for the institution of charges for up to two weeks upon the request of the Public Prosecutor.
8. A suspension order on the dissemination of mass media should indicate the provision or provisions leading to the suspension, the publication volume, the issue in which the article appeared.
9. A suspension of mass media products will be implemented only on publication ready for dissemination. The suspension order will be enforced by the Police immediately.
10. The Public Prosecutor will be held legally liable for inappropriate use of the authority given under this provision.

PART SIX

TAKING LEGAL MEASURES

Article 41: Institution and Hearing of Charges Relating to Mass Media

1. Unless the Chief Prosecutor decides otherwise, any person suspected of committing crimes through the mass media shall be presented directly to the Court without being

held in detention for additional investigations under the provisions of articles 59 /2/ and /3/ of the Criminal Procedure Code.

2. The Court with jurisdiction to hear the charges should have the charge heard within 15 days of receiving the statement of charges.
3. The Court should effect the reception of a duplicate or copy of the statement of charges as well as evidence submitted by the accused at least five days before hearing the charges.
4. The Court entertaining the case should render its decisions within one month of the commencement of the trial.
5. Where the accused cannot be found or is not present within 7 days after receiving the summons, the Court will publish summons on a newspaper indicating that the case will be heard and decided in absentia.
6. If the accused has grievances on the decision given in absentia, he has the right to appeal under article 42.
7. Notwithstanding the provisions of sub-article 1 of this article, criminal charges on crimes of defamation and calumny of individuals and private organizations through the press should be submitted by the injured parties.
8. The Court shall order the communication of decisions given pursuant to sub-article 4 to the Ministry of Information or the Regional Information Bureau.

Article 42: Appeal

1. A party aggrieved by the court decision should submit the application for appeal to the appropriate court within 30 days of the decision: the Court that has passed the decision should give a copy of the decision to the applicant within 24 hours from the time the applicant communicated his intention to appeal.

2. The Appellate Court should give its decision within 10 days of receiving the application for appeal.

Article 43: Punishment

1. Any person contravening the provisions of article 6 /1/ through /3/ is punishable with fines not less than Br. 20,000 (twenty thousand Birr) and not more than Br. 200,000 (two hundred thousand Birr).
2. A publisher of a periodical or broadcaster who failed to assign a responsible editor in violation of article 5 /2/, issues a publication without registration in violation of the provisions of article 7 /1/ or violates the mandatory registration indicated under article 8 /1/ or fails to fulfill the obligations indicated under article 9 is punishable with fines of up to Br. 15,000 (fifteen thousand Birr).
3. An Editor-in-Chief or program editor who has failed to publish a response or correction sent for publication pursuant to article 38 is punishable with fines of up to Br. 10,000 (ten thousand Birr). Where the offence is committed at the time of elections, the fine shall be up to Br. 15,000 (fifteen thousand).
4. Any person who has violated the provisions of article 5 /1/ or violated the provisions of article 7 is punishable with fines of up to Br. 15,000 (fifteen thousand Birr).
5. Where a person has been found guilty of a crime committed through mass media, the Court may order the publication of the decision on the publication upon request.
6. The Court may suspend the dissemination of publications of a mass media organization that has been found guilty or for the seizure of whose publication an order has been given.

Article 44: Period of Limitation

1. Charges relating to crimes committed in violation of the provisions of this proclamation shall be barred by period of limitation where the charges have not been instituted within one year of the dissemination or transmission of the publications.
2. For offences committed through broadcasts, the charges shall be barred by period of limitation if criminal charges have not been instituted within six months from the date of transmission of the program through which the offence was committed.

PART SIX

MISCELLANEOUS PROVISIONS

Article 45: Scope of Application

1. This proclamation will be applicable to any publication only where:
 - a. the publication has been given a certificate of registration pursuant to this proclamation;
 - b. the publication contains statements indicating the fact that the publication has been duplicated, the identity of the publisher or printer, the address where it was published and the year of publication.
2. Publications will considered mass media where they have been duplicated for dissemination or sale or have been broadcasted.
3. Without prejudice to what has been promulgated otherwise in this proclamation, any picture is considered a publication even if not issued with writings.
4. This proclamation will not be applicable to publications of sexual nature disseminated for sale or without payment. The details of the dissemination and printing of these publications will be determined by law.

Article 46: Transitional Provision

1. Any press undertaking press activities prior to the promulgation of this proclamation should register and get a certificate of registration pursuant to article 8 of this proclamation within 90 days of the coming into effect of this proclamation.
2. With a view to preparing the necessary conditions, the provisions of part three of this proclamation will be effective after two years from the publication of this proclamation in the Negarit Gazzeta and the House of Peoples' Representatives may extend it for a period of not more than one year if found necessary.

Article 47: Conflict with Other Laws

Any law, regulation, directive, order or usual practice in conflict with this proclamation will not be applicable to matters covered under this proclamation.

Article 48: Repealed Laws

The Press Proclamation number 34/85 has been repealed by this proclamation.

Article 49: Effective Date

This proclamation shall come into force as of the date of publication in the Negarit Gazzeta.