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## Forum

### Responsible Freedom: The Arab States' Charter for Satellite Broadcasting

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Earlier this year, Arab ministers of information, with the exception of Qatar, adopted a charter calling for regulation of satellite television broadcasting after an extensive public debate. Qatar, the home of *Al Jazeera*, did not reject the charter but has requested additional time to review the document. One of the articles in the charter generated a great deal of debate and controversy from a number of international media watchdog organizations, which expressed concern that the charter's perceived restrictions on the freedom of expression could be used to suppress independent and critical media voices that are essential to the growth of civil society and democracy.

Nearly every time there has been a movement to regulate electronic media, there has been a great deal of controversy, such as when UNESCO, in collaboration with the Commonwealth Broadcasting Association (CBA), launched a set of Guidelines for Broadcasting Regulation, and more recently, with Sweden, Japan and other countries' attempts to regulate use of the internet.

Regulating broadcasting is not a new concept to most of the world; however, a formal set of regulations is new to countries in the Arab world, which have used a broadcast code of ethics instead of the body of rules and regulations that should govern the industry in general. The recently adopted charter is not substantially different from the widely accepted charters of many of the world's broadcasting networks, such as NHK, BBC and others, or national broadcasting regulators, like the broadcasting charter of the European Commission.

Broadcasting is the most widespread, powerful means of communication in the Arab world. In many parts of the region where there are high levels of illiteracy or poverty, the primary access people have to news and information is through word-of-mouth or television. Increasingly, people are tuning in to satellite television broadcasts, which have become the main source of news and entertainment in Arab households. Satellite television is expected to continue to grow in importance, eventually reaching thousands of channels. People of all income levels

have widespread access to satellite channels either in their own homes or in shared locations like a shared television in villages and in the neighborhood *abwas*.

Broadcasters in the Arab world therefore have enormous influence over the way in which their audiences see the world and form their attitudes toward their neighbors and others in society. Governments have been regulating broadcasting for nearly as long as there have been broadcasts. As terrestrial broadcasting declines and satellite broadcasting increases in importance, regulation similar to long-existing terrestrial regulation is needed to ensure that responsible standards are maintained.

Satellite broadcast regulations in the Arab world are long overdue. Arab broadcasters should be considered accountable for adhering to the conventional principles of decency, religious and cultural values, as well as the rule of law. Arab satellite broadcasters should address their audiences' needs and necessities, and avoid content that promotes violence and/or hatred, provides support for terrorist activities, or endorses or promotes political viewpoints without providing balance and accuracy. Most governments have recognized this need and have acted to ensure this. The US and the European Union in 2005, for example, banned *Al Manar*, the official satellite network of Hezbollah, which the US has labelled a terrorist organization (Warikoo, 2005).

While some media experts believe that digital broadcasting technology weakens the need for regulation, others have argued the opposite, especially after the events of 9/11. Arab information ministers generally hold the latter view. A mission was given to a team of media law experts (including the author of this article) in 2005 to put together a draft charter with reference to the satellite broadcasting system. The charter was developed following a review of broadcast regulators throughout the world, including UNESCO's best practice guidelines and the Council of Europe's European Convention on Transfrontier Television. The charter also reviewed the literature on media laws, which are generally based on the idea that broadcasting in all forms was established to serve the public interest.

While the charter is based on principles of broadcast regulations common to most countries that have regulation structures, the charter also reflects the values and culture of Arab society. This Arab context is important – what is acceptable for European audiences is not necessarily acceptable for US audiences, and the same goes for Arab audiences. One size does not fit all. Arab culture is generally not as open as that of Western society, and Islamic society in general and Arab society in particular is notably defensive of its traditions and values. The charter recognizes this and contains an article, for example, calling for regulation of content that would offend most adherents not only of Islam but also of other religions as well. This call was given urgency following satellite programmes from the region

broadcasting *fatwas*, sheikhs preaching violence and intolerance, and programmes promoting superstition bordering on black magic. In the West, the impact of this kind of programming might be dismissed, but it is not difficult to imagine the impact this kind of content might have on relatively uneducated and unsophisticated Arab audiences who receive most of their entertainment and information from television (Amin, 2008).

The charter also seeks to prevent programming that glorifies criminal behaviour or promotes discrimination on the basis of colour, gender, race, religion or societal status. The charter calls for broadcasters to follow generally accepted standards of decency and lifestyles that reflect the traditional values of Arab culture. In addition, it restricts, as does the European Convention, advertising of drugs, alcohol and cigarettes. It also calls for 'adherence to objectivity, sincerity and respect for the dignity of countries and their national sovereignty'. This is similar to the European Convention on Transfrontier Television's restrictions on, among other things, the broadcasting of pornography, violence and incitement to racial hatred, as well as the advertising of tobacco, prescription medicine, alcohol and other products.<sup>1</sup>

Likewise, the United States' Federal Communications Commission (FCC) also prohibits indecency and offensive language: 'language or material that, in context, depicts or describes, in terms patently offensive as measured by contemporary community standards for the broadcast medium, sexual or excretory activities or organs',<sup>2</sup> and US courts have consistently upheld the FCC's authority to regulate indecent speech, within certain limitations.<sup>3</sup> In fact calls are multiplying for increased control to meet community standards of decency, as well as calls to have the FCC regulate cable broadcasts in addition to terrestrial broadcasts. US citizens are calling for more enforcement of standards rather than less, and in 2005, the same year work began on the Arab Charter, the US Congress signed into law the Broadcast Decency Enforcement Act, which increased tenfold the penalty that broadcasters must pay for violating these standards. The act was the result of the exponential rise in indecency complaints to hundreds of thousands per year; government proponents said that broadcasters had a responsibility to reflect common standards of decency, as defined by their communities.<sup>4</sup> At the same time, the European Commission was discussing the possibility of regulating internet broadcasting, so that broadcasting on all platforms would be held accountable to the same standards (Amin, 2008).

The article of the charter that received the most criticism was the one that dealt with criticism of cultural symbols and leaders of states. Media watchdog groups fear that this article will stifle calls for reform, exposure of corruption and abuse, and the development of the kind of political opposition that is necessary for democracy to flourish. This is a reasonable concern, given the authoritarian history of most of the broadcasting systems in the region. However, the charter calls for

the responsible exercise of freedom of expression rather than silencing opposing voices. Broadcasters are free to criticize the government and to report corruption, but they must do so in a responsible way, reporting facts and not by defaming or libelling public figures or advocating terrorist acts or violent strikes. The latter may incorporate different sorts of violence, such as the violent overthrow of regimes. Additionally, the charter has an article that ‘prohibits broadcasters from insulting both cultural symbols and leaders of States’. This article reflects a long-standing cultural value in Arab countries. Although the charter did not mention directly or indirectly that it prohibits disagreements of any sort, it does prohibit the use of insulting language, a restriction which critics have said restricts freedom of expression. It should be clear that the charter clearly states that Arab broadcasters will enjoy the right to criticize and disapprove of policies, but they will have to present accurate information to the Arab public and avoid statements that defame, slander, insult or libel, and Arab broadcasters should not make allegations against symbols or leaders without merit. These prohibitions in the charter are designed to guard Arab citizens as well as their leadership. UNESCO’s Guidelines for Broadcast Regulations echo these strictures and state that freedom entails responsibility and is:

subject to such conditions and restrictions as are prescribed by law and necessary in a democratic society. The exclusions cover: the prevention of disorder or crime, the protection of health or morals, the protection of the reputation and rights of others (including the right to privacy), preventing the disclosure of information received in confidence, and maintaining the authority and impartiality of the judiciary. (Saloman, n.d.)

Given the region’s history of authoritarian broadcasting systems, the fears of critics are understandable. However, the solution is not to *not* regulate, to permit chaos. No responsible government does this. The solution is to regulate satellite broadcasting in a responsible and transparent manner, protecting the rights of multitudes of voices and viewpoints to be heard, while ensuring that standards of fairness, accuracy, decency and responsibility are being met.

The charter is designed to develop the quality of Arab satellite programming and contribute to the development of a strong and vibrant civil society by prohibiting yellow journalism, opinion pieces disguised as news, violations of intellectual property rights, programmes that promote terrorism, violence, hatred or superstition, and other substandard practices. Based on the best practices of television broadcasting regulation in the West and adapted for Arab society, the Arab Satellite Broadcasting Charter provides the basic pillars to govern and advance the Arab satellite broadcasting platform by meeting international standards for developing a comparative, plural and diverse broadcast environment that aims at providing excellence in all information and cultural satellite broadcast products in the region.

<sup>1</sup> Summary of the European Convention on Transfrontier Television, available at <http://conventions.coe.int/Treaty/en/Summaries/Html/132.htm> (accessed 24 February 2008).

<sup>2</sup> Enforcement Policies Regarding Broadcast Indecency, available at <http://www.fcc.gov/eb/Orders/2001/fcc01090.html> (accessed 24 February 2008).

<sup>3</sup> Enforcement Policies Regarding Broadcast Indecency, available at <http://www.fcc.gov/eb/Orders/2001/fcc01090.html> (accessed 24 February 2008).

<sup>4</sup> 'President signs the Broadcast Decency Enforcement Act of 2005', available at <http://www.whitehouse.gov/news/releases/2006/06/20060615-1.html> (accessed 23 February 2008).

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