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PRESS STATEMENT

COMMENCEMENT OF THE MEDIA INDUSTRY DEVELOPMENT DECREE 2010

The Media Industry Development Decree 2010 (“the Decree”) was gazetted by the Government on Friday, 25 June 2010. The commencement date for this Decree has also been issued by the Prime Minister and Minister for Information.

The Decree has commenced with effect from today, Monday, 28 June 2010.

As you are no doubt aware, the Decree was approved by Cabinet earlier this year, and Cabinet also approved for consultations to be held with relevant stakeholders throughout the country. Consultations were held with the media industry and the members of the public in April 2010.

During the consultations, a number of recommendations were made by a number of persons for changes to certain provisions of the Decree. Government has considered these recommendations and has incorporated most of them into the final gazetted Decree, keeping in mind the need to balance the interests of the media industry with the public interest.

I would like to highlight some of the important changes that have been incorporated in the Decree after the consultations:

1. The definition of media organisation has been refined to exclude internet service providers, telecommunications service providers and any production house engaged in the production of advertisements or other audio-visual materials. The Minister also has the power to exempt any non-profit or charitable organisation. (Section 2)

2. The composition of the Media Industry Development Authority (“the Authority”) has been expanded from one person to a total of 6 members. The membership of the Authority now comprises:

- (a) A chairperson;
- (b) The Solicitor General or his nominee;
- (c) One person representing the interest of consumers in Fiji;
- (d) One person representing the interest of children;
- (e) One person representing the interest of women; and
- (f) One person with experience in journalism and/or the media industry.

(Section 4)

3. The requirement for including a byline has been reviewed, and only the content of any print media which is in excess of 50 words must include a byline. (Section 23)

4. Previously, the Decree empowered the Authority to require documents or information from any media organisation, and to enter premises under a search warrant. This power has now been limited. The Decree now has express provisions for the protection of identity and particulars of the source of any information published by a media organisation. Thus, if the Authority deems it necessary to require the disclosure of the source of any news item, the Authority must apply to the Media Tribunal for appropriate orders. However, no media organisation is, under the Decree, required to disclose the identity or particulars of the source of any news item, which relates to corruption or abuse of office by a public officer. (Section 28)

5. The requirement of registration of media organisations remains the same, and all media organisations must be registered in accordance with the provisions of the Decree. (Section 33)
6. An important amendment made to the Decree is in relation to the special features of media organisations. Under the Decree, all the directors and at least 90% of beneficial shareholders of any media organisation must be Fijian citizens permanently residing in Fiji. The residency requirement has been relaxed, and “permanently residing” now means any person residing in Fiji for 3 out of the 7 years prior to registration and thereafter residing in Fiji for at least 6 out of 12 months of a year. (Section 37)
7. All media organisations have 3 months from today, to ensure that their directors and 90% of the beneficial shareholders of the media organisation are Fiji citizens permanently residing in Fiji. I wish to make it clear that any media organisation which fails to comply with this requirement shall cease to operate as a media organisation, and shall also be liable for an offence under the Decree. At this stage, Fiji Times is the media organisation that needs to comply with the ownership requirements. (Section 38 and 43)
8. The prohibition under the Decree for cross-media ownership has also been revised. Now, if a person owns a beneficial interest in any one media organisation, then that person may own a further interest in only one other media organisation provided that –
 - (a) if the business or trade of that other media organisation is in the same medium, then the person may hold up to 25% non-voting interest in the other media organisation;

- (b) if the business or trade of that other media organisation is a different medium, then the person may hold up to 5% of non-voting interest in the other media organisation.

(Section 39)

9. Any person holding an interest in more than one media organisation contrary to the requirements of the Decree has 12 months from today to dispose of any such interest. [Section 39(5)]
10. Another important change made to the Decree is the reduction in the financial penalty or monetary compensation which can be ordered by the Tribunal against a media organisation. A journalist or an employee of any media organisation is only liable to a sum not exceeding \$1,000, a publisher or editor is now liable to a sum not exceeding \$25,000, whereas a media organisation is now liable to a sum not exceeding \$100,000. This is a significant reduction from the sums previously provided, and it substantially reduces the sums which a journalist or a reporter may be liable to pay. (Section 65)
11. Equally important is the introduction of the right of appeal against decisions of the Tribunal. Any complainant or the Authority now has a right of appeal to the Fiji Court of Appeal against any final decision of the Tribunal. Any media organisation also has a right of appeal to the Fiji Court of Appeal against any decision of the Tribunal which involves the payment of a sum in excess of \$50,000 by that media organisation. (Section 79)
12. The penalties for any offence committed under the Decree have also been significantly reduced. The penalty for any person who commits an offence has been reduced to a fine not exceeding \$10,000 or imprisonment of up to 2 years, and the penalty for any company which commits an offence has been reduced to a fine not exceeding \$100,000.

The Decree marks a substantial progress in the laws relating to media, and now provides for proper accountability and transparency of all media organisations. It introduces responsible reporting on the part of the media organisation, and provides the members of the public with more effective recourse for any complaint against media organisations.

The establishment of an independent Media Tribunal is a substantial development when compared to the Media Council, which was largely made up media organisation personnel.

Government looks forward to a successful implementation of the Decree. Dr. Satendra Nandan has been appointed as chairperson of the Authority. Dr Nandan is an internationally reknown academic and writer. He is also a trained journalist. He has written for numerous publications, has appeared on international media such as the BBC and is also a commentator. Other members of the Authority shall be appointed shortly. The Tribunal shall also be shortly appointed. Government also invites all stakeholders in the media industry to take note of the provisions of the Decree and to organise their business and trade in accordance with the Decree.

Thank you.

Aiyaz Sayed-Khaiyum
Attorney-General and Minister for Justice, Anti-Corruption,
Public Enterprises, Industry, Tourism, Trade and Communications

28 June 2010