

Regulation of digital content in the UAE - Part One

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With approximately 56 Internet users per 100 inhabitants in the UAE recorded in December 2011, one might say that the UAE is a highly connected country. Surprisingly, however, some people in the media industry mistakenly think that the traditional media regulations do not apply to the online environment. Digital media content, like traditional media content, is the subject of extensive regulation in the UAE, and is actively enforced by the authorities. Contrary to popular belief, such regulations also apply to businesses in free zones. Given the pervasiveness and novel distribution methods of digital content and the growth of social media and networking sites, all media companies are well advised to familiarize themselves with the law and its practical application.

The Telecommunications Regulatory Authority

The Telecommunications Regulatory Authority (TRA) implements an “Internet Access Management” (IAM) policy. The TRA monitors online content available to users in the UAE and will draw to the attention of website operators based in the UAE any potential breaches of the IAM policy. The content prohibited by the IAM policy encompasses that prohibited by the legislative regime discussed below, as well as internet content for hacking and malicious codes, internet content providing unlicensed VoIP services and internet content relating to terrorism. The TRA, in its IAM enforcement role, also monitors advertising online, including for example the advertising of medical products and services. Etisalat and Du, licensed telecommunication service providers in the UAE, provide users with access to the Internet. According to their licenses, these providers are required to block content online if requested to do so by the TRA.

The TRA is active in this enforcement role. A widely reported example was in 2009, when the TRA banned access to a cartoon clip on YouTube which was said to hurt religious and nationalist sentiments. A statement issued by the TRA at the time read: “The internet access management policy, published by the TRA, clearly identifies prohibited content categories, which both UAE internet service providers have published on their websites. Therefore, no content on the Internet is blocked unless it breaches IAM policy. As for YouTube, the TRA has instructed to block ‘part of its content’ that breaches the prohibited content categories of the IAM policy. However, there are clear and specific procedures to that, and both ISPs are compliant to these procedures.” A TRA official was quoted by Gulf News in its edition of 11 March 2009 as further saying: “It happens that some things can escape the proxy, especially clips with tags like a cartoon which in normal cases do not need to be blocked. But when the authority receives comments or feedback on a particular case, necessary action is taken promptly. In such cases, we ask the ISP’s to manually block the content.”

UAE Federal Publications and Publishing Law 1980

Federal Law No 15 for 1980 concerning Publications and Publishing (Publications Law) governs content, irrespective of whether the content is published digitally or via traditional mediums such as newspapers or magazines. The Publications Law regulates printing and publishing activities in the UAE and is broad enough to cover all forms of published content expression including television broadcasting. The Publications Law sets out matters that may not be published, including matters related to religion and politics, national security, individual rights and public morals. Other articles in the Publications Law set out the penalties imposed on the publishing company, as well as the editor or editor-in-chief in some instances, if found to have violated the provisions of the Publications Law.

Cyber-Crime Law 2006

While publishing companies and editors may be subject to penalties under the Publications Law, persons generally (including editors and journalists, as well as bloggers) may be subject to the penalties set out in Federal Law No 2 of 2006 on the Prevention of Information Technology Crimes (Cyber-Crime Law). This law was enacted by the UAE Federal Government to tackle cyber crimes and those persons who perpetrate them, and generally has a broader application than the Publications Law in the sense that it aims to deter abuses of technology generally. However, it does regulate digital content.

A new federal “Media Law”?

A draft of a new federal “Media Law” was made available for public comment in 2009 by the National Media Council. Public reports indicated that some examples of the changes in this new law included abolishing the criminal penalties (such as imprisonment) from being imposed on journalists; decreasing the number of violations for which media organizations may be liable; instructing government institutions to facilitate information flow to the media and to respond to their requests for information; and, providing journalists freedom from coercion to reveal sources. However, as far as we understand, that draft law has not yet been finalized nor enacted.

Does the legislative framework apply to media companies established in a Free Zone?

The short answer is yes. The National Media Council has stated that all media, audio-visual and print institutions in the UAE, including those in the free zones as well as onshore, shall comply with the standards for media content contained in the Publications Law, and other laws and regulations in force. While this statement serves to affirm the applicability of the Publications Law to media entities set up in free zones, it also sets out several criteria that media entities must comply with, including not to offend God and/or Islamic beliefs, respect for other monotheistic religions and respect for the cultural heritage of the UAE, its symbols and its political institutions.

Two predominant UAE media freezones – twofour54 in Abu Dhabi and TECOM in Dubai – each have their own codes of conduct and regulations applicable to entities set up in each freezone, which will apply in addition to the Federal laws set out above.

- twofour54 – Media Zone Authority “Content Code”. This Code sets out the editorial standards which must be maintained by licensees of the MZA (Licensees) who intend to publish, broadcast and/or communicate content to the public. The key principles of the Code are: (i) Freedom of expression; (ii) A duty to take account of cultural and social expectations; and (iii) Responsibility of compliance with the Code rests with the Licensees.
- TECOM – “Codes of Guidance”. The Codes of Guidance were created for the benefit of businesses operating in TECOM, particularly broadcasters and publishers in Dubai Media City. The Codes of Guidance were modeled on the codes set by the following entities: British Standards Commission, the British Broadcasting Corporation, the UK Independent Television Commission, the UK Press Complaints Commission and the UK Radio Authority. Having said this, the opening statement of the Codes of Guidance also require broadcasters and publishers to be mindful of and to take into account “the prevailing social and religious mores of the UAE and the Middle East and the Islamic religion generally”.