

Kuwait applies the Electronic Media Law

Ahmed El Fass - Associate - Corporate / Mergers & Acquisitions

a.elfass@tamimi.com - Kuwait City

Furthermore, electronic media is considered one of the primary components of media systems in the state. The freedom to use it is guaranteed to all according to the rules of the aforementioned law, and there are no primary controls on what is circulated in terms of content across websites and other electronic media outlets. Media can be divided into two distinct categories, print media and electronic media. Certain thoughts are that print media still forms the foundation of media in the modern world despite the prevalence of technology and electronic means. However, one cannot deny the importance of electronic media in modern life today. Accordingly the State of Kuwait's Ministry of Information, in its bid to remain in pace with electronic media development, commenced implementation of Law Number 8 for the Year 2016 Regarding the Regulation of Electronic Media (the "Electronic Media Law"). The legislation was approved by his Highness the Amir of Kuwait, Sheikh Sabah Al Ahmad Al Jaber Al Sabah and published in the Official Gazette on the 7th of February 2016.

Electronic Media Law:

Pursuant to Article 1 of the Electronic Media Law, Electronic Media is defined as "activity which includes the publication or transmission of materials, activities or media services of electronic content that are produced, developed, updated, circulated, transmitted, published or penetrating it through the international information net (the internet) or any other communications net."

The State of Kuwait though its application of the Electronic Media Law, shall be in a position to provide the necessary facilities to be in concomitant with the progressive technological development of electronic media according to what is regulated under the executive regulations of the mentioned law. It intends to do so by supervising and effectively overseeing electronic websites and electronic media outlets that comply with the rules of the Electronic Media Law.

Application of the Law:

Taking into due consideration the rules of other laws; any person who wishes to establish or operate any of the electronic websites or electronic media outlets is obliged to obtain the requisite license from the Ministry of Information. The license shall be valid for a period of ten years and is renewable upon request of the licensee and the subsequent approval of the Ministry of Information.

It is deemed sufficient for websites and electronic media outlets of state authorities, institutions, public organisations and any other governmental body or societies that are for public benefit (syndicates and unions established according to the law); to notify the Ministry of Information of its establishment of the electronic website or media outlet and identify the manager in control within 60 days from the date of the establishment of the website or the outlet, according to what is regulated by the executive regulation of the Electronic Media Law.

The Ministry of Commerce and Industry for the State of Kuwait (the "MOCI") restricts some of the activities under the ministry to the citizens of the State of Kuwait only, including any activity related to the Ministry of Information. The application for obtaining the license shall be submitted to the Ministry of Information according to the format required. It is a condition that the applicant for this license be of Kuwaiti nationality, with full capacity and not be less than twenty one years of age. The same conditions apply to the manager who shall represent the applicant before the Ministry of Information and other government authorities. .

The manager in control shall be responsible for the respective website or electronic media outlet/platform,

for the content that is published on the said media platform and for any prohibited or violating content on the respective website or electronic media outlet/platform under the law. Therefore the manager shall be responsible for observing accuracy and credibility in all publications of news, information or data. The manager is also obliged to publish any response, correction or refutation that is received by him directly or indirectly from the Ministry of Information or other government agencies, from any juristic or natural person or the legal representative of the subject individual or entity whose name was stated or referred to in writing, a drawing or a code that was published.

Violation of the Law

The competent court is entitled to impose the necessary penalty on every subject, who practice any of the activities set forth under the Electronic Media Law without a license or who consequently violate the law in practice. A minimum fine of five hundred dinars and a maximum of five thousand dinars will be imposed with the potential penalty of blocking the site in its entirety.

The respective Kuwaiti Minister of Information and Minister of State for Youth Affairs, Sheikh Salman Sabah Al-Salem Al-Homoud Al-Sabah asserted that Kuwait was among the first countries which had implemented a comprehensive law on this subject matter. The Ministry of Information called on all electronic media outlets and platforms to abide by the Electronic Media Law in contribution to the growth and development of the media sector. The Ministry of Information also emphasised how helpful such media outlets can be in staving off extreme ideologies, whilst adopting various virtues for the betterment of the nation.

The law works to promote freedom of expression whilst also ensuring unhindered access to information. It aims also to eliminate any potential impediments to sharing information on electronic media outlets in a way that would conserve national values and interests.