



Submission of the Media Institute of Southern Africa South Africa Chapter

on the application for amendment of SABC licences in
terms of section 22 of the Broadcasting Act Number 4
of 1999

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The South African Chapter of the Media Institute of Southern Africa (MISA-SA) would like to thank the Independent Communications Authority of South Africa (ICASA) for the opportunity to make a submission with regards to the SABC's "Application for Amendment of licences in terms of Section 22 of the Broadcasting Act No 4 of 1999".

MISA is a regional member-driven, non-governmental organization, which exists to promote an independent, diverse and pluralistic media landscape. It has 11 chapters in the SADC region, which work towards establishing a self-sufficient, sustainable media environment and takes its mandate from the Windhoek Declaration of 1991. MISA-South Africa is involved in partnerships and consultative networks towards the promotion of a free, independent and pluralistic sector.

MISA-South Africa's submission focuses primarily on the nature of the South African Broadcast Corporation as public service broadcaster as this informs the broadcaster's application for licence amendments. While we acknowledge the SABC's attempts to transform itself from a state broadcaster to a public service broadcaster, we remain concerned about the fulfillment of its public service mandate. With the exception of its educative and educational programming, it is becoming increasingly difficult to differentiate SABC programming from the commercial television broadcasters. The distinction between a 'future' commercialized SABC and the existing SABC is blurred.

Notwithstanding, we acknowledge the need for the SABC to balance market share and public service principles as a challenge for broadcasters worldwide (McKinsey's Report, 1999). Across the globe, broadcasters are faced with twenty-first century challenges including the rapid expansion of technology, digitization, globalisation and subsequent manifestations like convergence, blurring of boundaries, fragmentation of audiences and so on. However, a significant characteristic of this 'global village' is the increasing need to reclaim and celebrate the local and national. Concomitantly, audiences are grappling

with issues of identity as they try to define themselves amidst the pressures of an increasingly homogenized world.

South Africa, more so than many nations that enjoy public service broadcasting not corrupted by the creep towards commercial orientation, has particular and serious social, economic, political and historic issues that the public service broadcaster has an obligation to tackle. It is a fact that local content on the SABC – screened on the so-called ‘public service’ channels, rates very highly with viewers, even if this does not always resonate with advertisers. Methods of financing and generating revenue for broadcasting have significant consequences for content. Public service broadcasting is first and foremost about content that has public interest at heart as opposed to appeal to commercial sponsors. On the other hand public service broadcasting is premised on the principles of universal access, promotion of national cultural identity, editorial independence, impartiality, programme diversity and accountability.

- In its application to amend its licence conditions, MISA is concerned that: In seeking to reinforce and expand its market base in direct competition with commercial providers the SABC is diluting its public service offerings and balkanizing the South African public.
- The application appears to attempt to evade accountability to the Independent Communications Authority of South Africa in terms of content quotas.
- We note with concern the lack of adequate funding for both the national public service broadcaster and the respective regulatory authority.

Public service mandate

The national public service broadcaster must prioritise relevant, quality programming. In addition, all South Africans should have access to public service broadcasting, if they so choose. MISA-SA is concerned the SABC wants to argue for ways to diminish its public service obligations in terms of its commercial division. In so doing, the higher LSM groups, which arguably

constitute audiences for SABC3 and 5FM, for example, would not be within the reach of diverse, pluralistic, independent, public service programming. One cannot assume that these audiences, for example, prefer commercially driven programming instead of relevant, quality programming that reflects public service broadcasting.

The defining of SABC channels into two categories will effect a separation of high LSM viewers from lower LSM viewers. This can only serve to maintain, if not deepen, the concept of a socio-economic or class division in South Africa. MISA-SA is of the view that the proposed division in SABC operations will not strengthen public service values especially that of nation-building, which are under increasing threat and which are under-defended by the SABC itself.

Regulation

The SABC, as public service broadcaster, should advance its role in terms of encouraging the development of South African expression as outlined in the Charter of the Corporation (Section 6, Broadcasting Amendment Act, No 64 of 2002). In “enjoy[ing] freedom of expression and journalistic, creative and programming independence as enshrined in the constitution”, the SABC is bound by the ICASA Act, 2000 - which amends the IBA Act, 1993. This Act provides for the establishment of “an independent authority”, which aims to “(a) regulate broadcasting in the public interest and to ensure fairness and diversity of views broadly representing South African society, as required by section 192 of the Constitution [...]”.

The SABC must be held accountable by the regulatory authority established in terms of the ICASA Act, 2000. This includes both the public service division and the commercial service division provided for in Section 9 of The Broadcasting Amendment Act No 64 of 2002.

ICASA, which is inadequately resourced, is the public's only real protective mechanism in terms of a mass media service that is orientated towards public service and all that the term implies. Our democracy is still finding its way and MISA-SA believes we are still in a transitional period that calls for greater, not diminished, monitoring of the role in society played by the public service broadcaster.

Funding

Another challenge facing public service broadcasters across the globe is funding. A crucial condition precedent for the public service division to fulfill its public service role is adequate funding.

MISA-SA is concerned with the decreasing public funding of the SABC and the subsequent increasing reliance on advertising revenue towards the sustainability of the national public broadcaster (advertising constitutes almost 80% of the public service broadcaster's revenue). Of particular concern is the decline in public funding for the SABC from R206 million in 1999 to R90 million in 2003 (SABC financial figures). This is in contradiction to a resolution taken at the 51st National conference of the African National Congress that found: "[t]hat in order to reduce dependence on advertising, government must increase its funding to the public broadcaster" (Resolution 35, ANC, 2002). It is indeed the responsibility of the state to "[...] provide universal and affordable access to the means of communication and reception of broadcasting services [...]" (Article 19, Section 2, Principle 6).

Recommendations

MISA-SA calls for an increase in public funding for both the regulator (ICASA) as well as the national public service broadcaster. While supporting the role of regional broadcasting services as a means to fulfilling its public service mandate, MISA-SA believes that funding reserved for regional broadcasting should not be at the expense of national broadcasting.

Furthermore, there ought to be organisational and operational safeguards built into the new arrangement that guarantee funding, sufficient for independence from short-term commercial imperatives. The SABC's stated preference for less prescriptive detailed regulation in order to allow it "flexibility" in the face of commercial considerations reflects a successful lobbying campaign for commercial imperatives and not the public interest (see page 101 of SABC's Amendment Application). Unless the funding arrangements are made more secure it is likely that meeting the public service remit will not be prioritised.

Moreover, the pricing arrangements described in Part 6 of the Application, for example, place greater emphasis on commercial arms length arrangements between the two divisions. This is particularly significant given that the SABC board is the body (together with the Minister) that determines subsidy levels from the commercial to the public service arm. At the same time this board is ultimately responsible for ensuring compliance with public service goals. Therefore, the licence amendment ought to specifically address the cross subsidy issue and place specific obligations on the Board to ensure adequate funding to the public service division, more especially from government.

MISA-SA is particularly concerned that in its application for amendments to existing licence conditions, the SABC appears to renege on its public service mandate to reposition its commercial service by challenging ICASA's role in regulating policy relating to content quotas/programming. While the broadcaster does and must enjoy the right to freedom of expression and freedom of the media, it and the functioning of other broadcasters must be appropriately regulated to ensure accountability in terms of its mandate – furthermore in relation to the SABC, current institutional safeguards exist to prevent the regulator interfering with the broadcaster's independence.

Section 22 of the Broadcasting Act No 44 of 2002 is clear on the reorganisation of the SABC into a public service and commercial service division. The SABC should not be allowed to deviate from obligations outlined in Section 11 (1b) of the Broadcasting Act No 4 of 1999.

Essentially, this submission calls for increased public funding for the SABC towards the fulfillment of its public service mandate as well as appropriate resources for ICASA, thus guaranteeing its autonomy and independence as a regulatory authority. Furthermore, we call for the Portfolio Committee on Communications to continue to play a more robust role in engaging these challenges.

Finally, considering the importance of such an application, and the fact that the extension on submission deadlines related to the public submission of revenue figures by the SABC, interested parties should be given every opportunity for additional consultation to make submissions on these proposed amendments. We trust that these processes will be broadly publicized and widely accessible.

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