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SUBMISSION ON DRAFT LICENCE CONDITIONS

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EXECUTIVE SUMMARY

- As a consequence of our special national challenges and responsibilities of promoting nation building and diversity, building democracy and restoring the human dignity of all our people, the SABC must review and revitalise its model of public broadcasting.
- This evolving model sees the traditional PBS ethos being rooted in a distinctly South African and African character - with a multi-lingual combination of South African languages.
- The Section 22 amendment process is the final, logical step in establishing the mechanisms needed to ensure the accountability of the SABC, by confirming the reorganisation of the Corporation and reflecting this reorganisation in licence conditions.
- The SABC welcomes the fact the Authority has approved the key aspects of its amendment application, namely:
 - The corporate structure
 - The allocation of services to the PBS and CBS divisions
 - The systems in place to ensure an arms length commercial relationship between the PBS and CBS divisions.
- In setting specific, quantifiable programming conditions for each of the SABC's services, the Authority has differed with the proposals originally put forward by the SABC. The SABC maintains that the only licence conditions which should have been set during this process are those necessary to reflect reorganisation and its obligations related to reorganisation.

- However, during the hearings the SABC stated that it was eager to engage further with the Authority on its proposed licence conditions and to correct any deficiencies in the proposals contained in its application. It is in this spirit that we welcome the opportunity to engage with the Authority's proposals.
- As they stand, the conditions proposed by ICASA are potentially damaging to the SABC's future stability and viability.
- The SABC will in this submission, propose a more "incremental" or "gradual" approach to the implementation of the licence conditions. This approach will see most conditions proposed by ICASA being fully or substantially complied with.
- The SABC has made the following broad proposals in relation to improving flexibility:
 - All programming requirements should be made weekly
 - A clause should be inserted allowing for temporary exemption from licence conditions to be sought in the event that events of national importance must be broadcast
- We have also made the following proposals in relation to programming:
 - The Authority's proposed clause 2.1.2 / 4.1.2 in Schedule C should be deleted
 - The effective date for the licences should be 1 April 2006
 - The minimum hours in the licence conditions should include repeats
- The SABC has undertaken a detailed analysis of the impact of the proposed ICASA conditions for television and the results are disturbing:

- For the SABC to meet the 80% quota for language delivery, the corporation would have to invest an additional ±R503m on its current budget for 2005/2006 for its PBS Television services;
- The additional investment on these services would not be absorbed by the advertising market, in fact, the proposed language requirement will result in projected 16% decline in audience share and as a consequence decline in advertising revenues for SABC 1 and SABC 2. The SABC's conservative estimates put this loss at ±R265m
- Furthermore, the SABC would have to terminate almost all its contracts for foreign content (Soaps, Movies, Series, Sitcoms and Documentaries) with international studios in order to deliver on this requirement. The total penalty costs for canceling existing contracts for the PBS Television services will amount to R350m
- In addition to this, the impact on SABC 3 is envisaged to be approximately R151m (additional investment as a result on proposed conditions) with a revenue loss of R63m (resulting from weakened competitiveness of channel)
- The total impact of full compliance on SABC television channels would therefore be R1.3bn in the first licence year
- The SABC has undertaken a review of capacity in the independent production sector and it appears that the industry currently lacks the capacity to produce the quantity of African language television programming suggested by the Authority. The responses to the SABC's inquiries indicated that the 80% quota will be difficult for independent producers to meet.
- As to the level of the quota, the SABC agrees that the majority of programming, in prime time, should be in the official languages, excluding English, which traditionally has received an inequitable share of airtime. While we therefore support the Authority's sentiments in proposing a high quota of 80%, we respectfully submit that this is not sustainable. The 80% quota means that local English programming and foreign programming would

be virtually excluded from the SABC’s screens. Aside from having a very detrimental impact on audiences and revenues, this is also incompatible with the SABC’s nation-building role.

- In line with the “incremental approach” the SABC has made proposals on the genre quotas to be captured in the licence conditions. In most of these genres, the Authority’s proposals will be complied with and at times exceeded.
- In setting licence conditions for the SABC’s radio services, the Authority generally appears to have attempted to capture the status quo of these services. Aside from a few cases, the Authority has not proposed significant programming changes. The SABC welcomes this and interprets this as a vote of confidence in the programme offerings of its radio services.

1 INTRODUCTION

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We have now embarked on the second decade of South Africa's democracy. In the past 10 years the transformation of the South African media industry in general, and the public broadcaster in particular, has been an ongoing endeavour.

This transformation has not always been easy but in spite of the many difficulties, what has remained uncontested has been the vision of the kind of public broadcasting South Africa requires. Since the beginning of our transition to democracy there has been a unanimous view that South Africa needs a strong, independent and vibrant public broadcaster, catering for the needs of all its citizens.

In this context, South Africa is attempting to build a model of public broadcasting almost unique in the world. Public broadcasters worldwide share many features relating to independence, accountability, diversity and accessibility. However, the South African context has unique facets that also determine the SABC's positioning. These relate to our challenges as a young democracy and society in transition. As a consequence of our special national challenges and responsibilities of promoting nation building and diversity, building democracy and restoring the human dignity of all our people, the SABC must review and revitalise its model of public broadcasting. This evolving model sees the traditional PBS ethos being rooted in a distinctly South African and African character - within all and/or a multi-lingual combination of South African languages.

This evolving model requires that a South African PBS play both transformational and developmental roles, build social cohesion, catalyze change, tell the South African story authentically within the African and global stories, and seek to promote dialogue and discussion among South Africans. The model also requires us to build especially our national marginalised cultures and languages. It requires the public broadcaster to maintain large audience share to achieve

national goals and to build social value across society irrespective of ethnicity, race, gender, age, ability and geographic location.

It requires a mix of programming and genres at scale within prime time and other day-parts - of factual, entertaining, dramatic and educational programming – within popular formats. The mix of programming required by the emerging PBS model should be predominantly but not exclusively locally produced, and should showcase national arts and culture. These PBS objectives must be achieved within the prevailing funding model thus requiring sustainable revenue growth and prudent financial expenditure.

This vision of a South African PBS is articulated in both the editorial policies and the Corporate Goals of the SABC, developed by the Board. Beyond these instruments, this model is also informed by a variety of other sources, including the licence conditions set by ICASA.

It is in the context of this model of public broadcasting that the amendment of the SABC's broadcasting licences in terms of section 22 of the Broadcasting Act should be viewed. The Section 22 amendment process is the final, logical step in establishing the mechanisms needed to ensure the accountability of the SABC, by confirming the reorganisation of the Corporation and reflecting this reorganisation in licence conditions.

The SABC therefore welcomes the opportunity to respond to the Authority's draft licence conditions.

Clarity on the “reorganised” SABC's licence conditions is a welcome outcome, both for the Corporation itself and its stakeholders, and should ensure an environment in which the SABC can continue to make significant public service delivery.

In this context, the SABC welcomes the fact that the Authority has approved the key aspects of its amendment application, namely:

- The corporate structure
- The allocation of services to the PBS and CBS divisions
- The systems in place to ensure an arms length commercial relationship between the PBS and CBS divisions.

The SABC believes the agreement on these critical issues lays the foundation for consensus to be reached on other key issues. Chief amongst these is the method of regulating programming on the public broadcaster.

In setting specific, quantifiable programming conditions for each of the SABC's services, the Authority has differed with the proposals originally put forward by the SABC. The SABC maintains that the only licence conditions which should be set during this process are those necessary to reflect reorganisation and its obligations related to reorganisation. The SABC had argued that it is the function of the Board of the SABC to determine the manner in which the Charter is met and it is the role of the Authority to determine whether the Charter has been fulfilled. In this context, we maintain our view that specific programme requirements in the form of quotas and hourly stipulations may fall outside the bounds of this process and the Authority's powers. On these matters, the SABC reserves all its rights.

In the interests of arriving at an acceptable *modus vivendi* the SABC will not in this submission revisit its legal submissions or respond to the Authority's reasons. It must be recorded, however, that the SABC is unable to agree with many aspects of the reasons.

However, during the hearings the SABC stated that it was eager to engage further with the Authority on its proposed licence conditions and to correct any

deficiencies in the proposals contained in its application. It is in this spirit that we welcome the opportunity to engage with the Authority's proposals.

As they stand, the conditions proposed by ICASA are potentially detrimental to the SABC's future stability and viability. The SABC has measured this impact and anticipates that the total impact of full compliance will be R1.3bn in the first year. This is a matter that the Authority is obliged to address in terms of one of the primary objects of the Independent Broadcasting Act 153 of 1993, which requires the Authority to "protect the integrity and viability of the public broadcasting services" (s 2(d)). The SABC is concerned that in the drafting of the proposed licence conditions insufficient attention may have been paid to this fundamentally important issue.

The SABC will in this submission, propose a more "incremental" or "gradual" approach to the implementation of the licence conditions. This approach will see most conditions proposed by ICASA being fully or substantially complied with over the licence period.

As the SABC has 21 licences, there are obviously numerous comments on the draft conditions to be made. Some comments are substantive in the sense that they relate to the SABC's programming and there is the potential for a significant impact on the future viability of the Corporation. Others are more technical in nature and relate to inconsistencies and ambiguities in drafting. The submission will deal with these comments separately and will also, in the appendix, contain comments on proposals made by 3rd parties.

The SABC is hopeful that the comments contained in this submission will be helpful to the Authority and will lead to the finalisation of licence conditions which protect the integrity and viability of South Africa's public broadcasting services. The SABC requests the opportunity to address the Authority on the matters contained herein.

3 PROGRAMMING

3.1 APPROACH TO REGULATING PROGRAMMING

At the SABC's PBS colloquium held in September 2004, Mr Harold Redekopp, Outgoing Executive Vice President for English TV from the Canadian Broadcasting Corporation, reminded participants about a famous assessment of broadcasting:

“In the mid-1950s we had a commission on broadcasting in Canada, the Fowler Commission, and it said that broadcasting is all about programming. Everything else is housekeeping. Now housekeepers weren't amused, and I've done a lot of housekeeping and I wasn't amused all the time either, but there's a certain truth to all of that. And certainly in today's multi-platformed, I'd say mega-choice world, content is king.”

This observation is pertinent to the draft licence conditions, where it is in the area of programming that most of the Authority's substantive proposals are located. With many of these proposals, the SABC and ICASA are in alignment on the programming output befitting a public broadcaster. In relation to those matters where we have concerns we will offer a detailed assessment and alternative proposals. Fundamental to our concerns is the potential financial impact of the draft ICASA proposals, if these proposals are not gradually introduced and if some flexibility is not provided for. As will be shown later in this submission, the impact of ICASA's proposals as they currently stand, could place the SABC's continued viability in jeopardy.

In developing specific per hour programming requirements for each of the SABC's services, the Authority is driving to the heart of the SABC's reason for being. Inherent in the conditions, therefore, is the potential for great risk to the SABC's future ability to attract audiences and deliver quality programming. It is for this reason that we urge the Authority to tread carefully in the setting of the programming conditions.

World-over public broadcasters are struggling to retain audience share. In Canada, CBC TV has only 5.8% share and this trend is mirrored in Australia where the public broadcaster has approximately a 15% share on television. In this context, it is a point of pride that the SABC's radio platforms still command over 50% share and our television platforms just over 60%. The SABC has been able to do this, not because it lacks effective competition, but because it has been able to provide South Africans with a mix of compelling, popular public broadcasting which audiences want to listen to and watch. In the context of the SABC's recent past as a state broadcaster catering only to a few, this wide support across all segments of the population is admirable.

Over the many weeks of the public hearings on this application, the SABC presented in some detail its progress in delivering its public mandate on each of its 21 services. These presentations gave testimony to an SABC which in the absence of detailed licence requirements, has already succeeded in providing much of the programme delivery which external stakeholders ask should be set in licence conditions.

In this context, what difference would it make if the SABC's current programming delivery were to be captured in licence conditions? It is disingenuous to argue that there would be no impact. While an element of certainty is created in guaranteeing the SABC's future delivery, there is risk in predetermining the majority of the SABC's schedules and programming for the next 6 – 8 years. There is even greater risk in committing the SABC to programme delivery beyond its present capacity and resources.

For these reasons, the SABC in its alternative proposals, has put forward an incremental approach. This approach will see certain programme genre requirements being met fully at the beginning of the licence term while with others there will be gradual increases over the licence period, which increases are achievable within the SABC's resource base.

3.1.1 Importance of an incremental approach

The Authority is well aware of the devastating impact that 'overnight' changes have previously had on the SABC. In 1996, substantial changes to the television schedules were introduced in a 'big-bang' fashion and these led to a drastic impact on audiences and revenue. In order to recover from those changes, the Corporation had to introduce significant budget cuts, including staff cuts.

The SABC is confident that the Authority is in agreement that such a situation should not be repeated. For this reason, we have proposed that in certain genres, the licence conditions are raised gradually throughout the licence period, rather than coming into effect at once. This would allow current programme contracts to run their course, without stock having to be written off.

The SABC's approach would see most conditions proposed by ICASA, being fully or substantially complied with over the eight-year licence term. In making this proposal, the SABC is building on a principle already contained in ICASA's proposals. ICASA has proposed, for instance, that the language obligation for television be phased in over 18 months. The SABC proposes that this principle be adopted and that it should be extended over the licence period.

3.1.2 Importance of scheduling and programming flexibility

The Authority is better placed than most to appreciate the dynamic broadcasting environment. In this environment it is critical that the public broadcaster is able to

respond quickly and effectively to changing audience tastes, to new competition and to global trends in order to continually improve on its public mandate offering. This means that the cumulative extent of the licence conditions and the manner in which they are drafted should be such that the flexibility of the public broadcaster is not unduly constrained.

Flexibility is particularly important when the sheer size of the SABC's mandate is considered. In its proposals, the Authority has stipulated that the SABC provide programming in the following areas:

- Drama
- News
- Current Affairs
- Children
- Informal Knowledge Building programmes
- Documentaries
- Education

In these instances, the Authority has stipulated the number of hours per day or per week that the SABC should devote to these programme genres. On PBS Television this amounts to 77 hours of programming (out of an available 126 hours in the performance period). Parallel to this the PBS channels must offer 134 hours of programming in stipulated African languages, on a weekly basis.

In so doing, the Authority has, before programming can begin:

- pre-determined the majority of the SABC's schedules,
- determined the relative importance of these genres to South African audiences and
- ensured these determinations remain unchanged until the licence comes up for renewal.

While the SABC does not have a difficulty with the programming identified by ICASA, it should be noted that this does not take into account a number of other mandate areas in which the SABC must deliver. In addition to the hours of programming which have been predetermined, the SABC must also broadcast:

- Sports, including sports of national interest, national sports programming, minority and developmental sports
- Parliamentary events such as the opening, the budget speech etc
- State funerals
- Elections
- Religion
- Other events of national importance including commissions of inquiry, live events on commemorative days
- The Pan African Parliament, etc

Undoubtedly this will be difficult to achieve if the licence conditions do not provide for sufficient flexibility.

The conditions should also take into account the need for space on the SABC's schedules for programming that will be commercially competitive. As the Authority is well aware, the SABC is, like many other public broadcasters, reliant on a mixed funding base. The SABC is peculiar in that its funding base is more heavily skewed to commercial sources than other public broadcasters. This reliance on commercial revenue means that the SABC must also deliver cost-effective programming which delivers high audiences. As the SABC explained during the public hearings, while it strives to deliver schedules which are distinctive from what commercial competitors might offer, this distinctiveness cannot be measured "timeslot for timeslot" but must be evaluated over the schedule as a whole. This means that in addition to education, news and local drama there needs to be a place for some foreign programming and some

popular programming such as talk-shows, game-shows, music programmes and reality formats.

The SABC has a number of proposals on how its scheduling and programming flexibility may be improved. Many of the specific proposals on the redrafting of the licence conditions are contained later in the submission. What will now be dealt with are two broad proposals aimed at improving the level of flexibility granted to SABC services. These are:

- Make all programming requirements weekly
- Provide for a clause allowing for temporary exemption from the licence conditions to be sought

The SABC submits that its proposals are reasonable, can easily be given effect, and will not materially impact on the output which the Authority wishes to see.

The submission will also focus on three further proposals impacting on the licence conditions generally. These are:

- The Authority's proposed clause 2.1.2 / 4.1.2 in Schedule C
- The effective date for the licences
- How repeats should be dealt with

3.1.3 Measurement period

In some of the obligations which the Authority has set, it has stipulated weekly requirements while for others it has set a daily requirement.

The SABC proposes that as far as is possible, all the programming requirements are made weekly.

This would mean that a requirement of an hour of news per day would be converted to a requirement for 7 hours of news per week. This will effectively see the same amount of programming being broadcast in a week, but will improve the broadcaster's flexibility on a daily basis. This will give the stations and channels greater flexibility in accommodating special events when they arise. When, for instance, the Budget Speech is carried live on our radio services, it may not be possible to meet the proposed daily requirement of children's programming on that day, but the weekly requirement could probably be "caught-up" later in the week.

Making the obligations weekly would also improve flexibility on weekends. Due to a variety of factors, including audience behaviour and staffing, the level of programme output in many genres dips on the weekend. Allowing the programme obligations to be met weekly would allow for a slight dip on weekends, while still ensuring that the overall weekly output is provided.

3.1.4 Exemption

As stated earlier, the SABC is frequently expected to clear its schedules to broadcast events of national importance and sports of national interest. Sometimes, when these events are lengthy (such as the Soccer World Cup) these occurrences could make the genre requirements difficult to meet and difficult to "catch-up" over the year. It should be noted that in the case of sports rights, the broadcaster is usually compelled by the rights holder to broadcast a large number of events / matches. It is therefore beyond the broadcaster's power to adjust coverage of these events, in order to comply with licence requirements.

Often these events can be predicted in advance, but sometimes they constitute national or international disasters (such as 9/11, the Tsunami) and demand that schedules are cleared at short notice.

The SABC therefore proposes that a clause be inserted in each of the licences allowing for temporary exemption from the conditions to be sought if the SABC can demonstrate that the broadcasting of events of national importance, sports of national interest or news events which are in the public interest, will inhibit the ability of the broadcaster to meet a quota stipulated in the licence.

The SABC proposes the insertion of the following clause:

“In the event that the Corporation, in fulfilling its duties and obligations under the Broadcasting Act and other related legislative provisions, is required to effect the transmission pertaining to events of national importance, sports of national interest or news events in the public interest, the Corporation shall be deemed to have been exempted by the Authority from fulfilling its duties and obligations stipulated in its licenses. Wherever possible, the SABC shall give prior notice of the transmission of such events. The SABC shall further, in its annual report to the Authority, stipulate the transmission of such events over the preceding year and shall detail their impact on the Corporation’s ability to comply with the duties and obligations stipulated in its licences.”

3.1.5 Providing a higher quantity of programming at the date of issue of the licence

The SABC is concerned about the clause which appears in some of the licences, no. 2.1.2 in Schedule C for Television and no. 4.1.2 for Radio, which contemplates that if at the date of issue of the licence, the licensee is providing a higher quantity of programming in a specific genre than required in relation to that genre, and wishes to reduce that amount, the Authority's prior consent is required.

The SABC is opposed to this condition for a number of reasons.

Firstly, the condition is unclear over what period this would need to be calculated. We therefore presume that it would need to be calculated as a weekly average over a period of a year¹. This would mean that the SABC would need to evaluate in advance across its 21 licensees, which programme genres, when calculated as a weekly average over the period of the next year, might fall below that amount which was being broadcast on the date of issue of the licences.

For the reasons laid out above it, it is not possible in a dynamic broadcast environment to determine down to the precise hour what will be broadcast for the next year. Schedules are planned in advance, but due to a variety of circumstances, they frequently change (rain may interrupt sporting events requiring other programmes to be broadcast, there may be state funerals etc). The output in a genre frequently varies from week to week and it is only after the completion of a full year that the exact average weekly performance can be calculated.

Stations and channels work with their regulatory requirements in mind, knowing that they must meet them and should hopefully exceed them. What this clause contemplates is that, regardless of the regulatory requirement, the output as of the date of issue of the licence must continue to be attained unless the Authority's prior permission is granted. The SABC respectfully submits that this is unfeasible and will cause an unreasonable administrative burden on the SABC to ensure compliance.

A further difficulty with this clause relates to the practical impact on mandate compliance. The clause is likely to result in an unduly high proportion of the broadcaster's schedules being regulated. To demonstrate this, the SABC has

¹ As per ICASA correspondence dated 10 March 2005.

calculated SABC 1's performance in February 2005 against ICASA's draft proposals.

ICASA requires 77 hours of programming in the following genres out of a performance period of 126 hours:

Drama – 28 hours / week
News – 1 hour / day
Current Affairs – 7 hours / week
IKB – 14 hours / week
Documentaries – 7 hours / week
Education – 6 hours / week
Children – 12 hours / week

In February 2005, SABC 1 broadcast in excess of the drama and children's programming requirement, and would therefore in terms of the proposed clause 2.1.2 in Schedule C, be held to the following requirements, unless the Authority's permission was sought to lower the quotas:

Drama – 36 hours / week
News – 1 hour / day
Current Affairs – 2 hours / week
IKB – 2 hours / week
Documentaries – 2 hours / week
Education – 6 hours / week
Children – 43 hours / week

This amounts to 120 hours of programming which is 95% of the total time available to the channel to broadcast during the performance period. This would leave 6 hours a week for all other programming. In this case, SABC 1 would fill the entire 6 hours through broadcasting local PSL Soccer on weekends (a total of 6 hours). The channel will therefore not be in a position

to broadcast Entertainment, Religion and Minority/Development Sports. Clearly this is unduly onerous.

The Authority seems to want to ensure that the maximum amount of public interest programming is broadcast at all times. This is a sentiment that the SABC shares. However, we submit that licence conditions are to be used to ensure a minimum level of output. Beyond this level, the public broadcaster requires the flexibility to schedule in a manner that enables it to deliver its mandate.

The SABC proposes the deletion of clause 2.1.2 / 4.1.2 of Schedule C in those licences where it appears.

3.1.6

3.1.7 The effective date of the licences

The Authority has determined that the effective date of the licence conditions will be the date of issue of the licences and has advised that this should be before the end of the 2nd quarter 2005². The SABC has grave concerns about its ability to implement the new conditions on this time-frame.

Contained in the Authority's proposed licence conditions are very significant changes to the SABC's programming and scheduling. These changes could not be implemented in just a few months. Even where the SABC's own proposals are concerned, these contain significant changes from current schedules which will need to be planned and budgeted for.

As the Authority is aware, programme costs are the major part of the SABC's annual budget. In terms of MTEF requirements, the SABC's budget must be approved by its Board before the end of February each year. The SABC's budget for 2005/06 has therefore already been finalised. In addition to this, programme briefs for 2005/2006 were issued to the independent production

² Correspondence from ICASA dated 10 March 2005.

industry at Sithengi in November 2004 and most if not all programmes for the next financial year have already been commissioned or are in the process of being commissioned. Furthermore, programme schedules for the first quarter of 2005/2006 have been submitted to the advertising industry as media planning for classical advertising takes place at least 3 months in advance.

In addition, it should be noted that commercial broadcasting licensees have traditionally been given 18 months by the Authority in which to meet the terms of their amended licence conditions. In this context the SABC believes it is unreasonable of the Authority to expect that the SABC should be able to implement new licence conditions within three months.

The practical impact of making the effective date before the end of the 2nd quarter 2005, will be that the SABC will, through circumstances that it is unable to control, be in breach of certain of its licence conditions. We submit that it would therefore be unreasonable for the Authority to persist with this effective date.

The SABC proposes that the effective date for the licences should not be the date of issue of the licences, but should instead be 1 April 2006.

The SABC proposes the insertion of the following definition:

“Effective Date” means the date from and upon which the licence conditions become effective being 1 April 2006.

3.1.8 Repeats

There is no reference in the draft licence conditions to repeat broadcasts and the extent to which these are able to count towards the minimum hours stipulated in the conditions. When the SABC requested clarity on this point, the Authority advised that it had not formed any view on this matter and that this should be dealt with in the licence conditions³. The Authority further invited the SABC to make submissions on this point.

The SABC believes that repeat broadcasts should be counted towards the minimum hours stipulated. This is currently the case for other broadcasters, with the exception of limited clauses in etv's licence where specific promises of performance were made by the applicant.

The costing of the Authority's licence proposals and on the SABC proposals has presumed that the minimum hours include repeats. If this were to change, the costs would increase significantly above what is outlined in the corporation's submission.

The SABC is acutely aware that too many programme repeats can cause frustration among viewers. However, repeats are a reality in the television environment and the key factor in the approach to repeats is to ensure that there is a balance in providing programming of interest and relevance to audiences and in being cost-efficient. To this end the SABC has developed guidelines on repeat programming for its channels.

There are varied reasons for broadcasting repeats:

- **Repeat programming as a mechanism to satisfy audience demand and to maximize access to programmes**

³ ICASA correspondence dated 10 March 2005

There is often significant audience demand for repeats which informs the channel decision to schedule repeat programming. In addition, repeat programming can, if carefully scheduled, reach a new target audience and therefore maximize audience access to programmes. When repeats are scheduled at different times, on different days or on different channels, it is likely that new audiences may be given access to programming which they previously did not have the opportunity to see.

Generally speaking, repeat programming achieves slightly lower ratings than those achieved by first runs programmes. But it should also be kept in mind that repeats are normally broadcast during timeslots where the available audiences are not as big as during the original programmes' timeslots. Thus, even though the ratings of repeats may be much lower than those for the original programme, in many cases the share does not differ to the same extent - e.g *Get Real* on SABC1 received 6.4 AR's for the original programme and 2.1 AR's for the repeat broadcast - but the average share for the two programmes was 19.1% and 19.8% respectively - and in some instances, the share was much higher for the repeats.

The experience of SABC 1 has been that the performance of repeats is almost as good as the first runs, especially for local dramas such as *Yizo Yizo*. It is interesting to note that for some educational programmes (*Beyond the Classroom* and *Vuk'uzenzela*) the repeats attract higher AR's and shares than the original broadcasts. Another interesting example is that of SABC 3 *Talk*, which has attracted an average of 1.3 AR's for the original as well as the repeat broadcast. However, the repeat has enjoyed a share of more than 12% while the original broadcast had only 5% share.

- **Repeats as a mechanism for cost recovery**

As a general rule local programmes do not break even on the first run. Local programmes are therefore repeated in order to achieve break-even status

and sometimes a positive return on investment. All dramas are produced on the basis that they will have at least 3 broadcasts (and therefore 3 opportunities to raise advertising revenue). This is an international standard for amortising the high costs of drama.

Therefore, notwithstanding the negative perceptions around some repeat programming, repeats of local programming provide an important mechanism for cost recovery. For this reason, as is the case with television broadcasters world-over⁴, repeats are likely to remain a part of the SABC's television schedules.

- **Repeats as a mechanism to meet local content quotas**

Given the enormous cost of local programming and local drama in particular, repeats are also an important contributor to the achievement of the local content quotas. By way of example, a typical 13 week local drama requires a R7.5m investment. This makes the local drama quotas of 35% for the PBS channels and 20% for the CBS channel difficult to meet without scheduling repeat programming.

It is also important to note that the extent to which repeat programming may count towards the local content quotas, is limited by the Local Content Regulations⁵. By stipulating that repeats may not count fully towards the quotas, these regulations effectively cap the amount of local programming repeated by channels.

- **Repeats as a necessity for specific genres**

⁴ Internationally, repeats are a fixture on broadcasters' schedules. In the US for example, television schedules in the summer months are characterised by an absence of any original programming.

⁵ In terms of the local content regulations, 50% credit towards the local content quota is awarded to first repeats, the omnibus repeat and a cross-channel repeat and thereafter all repeats are counted as foreign content.

It is also worth noting that in some genres of programming, such as children's and educational, there are sound pedagogical reasons for repeats. Research both nationally and internationally points to the value of repeats for the purpose of learning and teaching. The learning styles and capabilities of young children (birth to 9 years) are best met through the utilization of repeats⁶. It should also be noted that the majority of South African children do not have the benefit of mediation of their viewing. Repeats remedy this shortcoming and such children benefit from a second and third opportunity to view the same programming⁷.

- **SABC guidelines on repeats**

Understanding that there are sometimes criticisms about repeats, the SABC has stipulated guidelines for its television channels in their approach to repeats.

- Repeat programming is an accepted part of SABC Television schedules. However, the SABC is aware of audience sensitivities around some repeat programming and therefore, as a general principle, endeavours to limit, rather than maximize the number of repeats on its schedules.
- When deciding to repeat programming, SABC television channels have regard to the following:
 - Whether the repeat will assist in managing the cost and revenue pressures on the channel
 - Whether the repeat will assist the channel in meeting its local content quotas

⁶ SAIDE research 2002.

⁷ Education Research, Paul Musker and Associates, August 2002.

- Whether the genre of programming lends itself to repeats or requires repeats (in the case of children's and educational programming)
- Whether there has been viewer demand for the repeat
- Whether the repeat can be scheduled in a manner which is beneficial to audiences, by targeting a new audience profile, thereby broadening access to the programme.
- In order to minimize potential audience frustration with repeats, repeat programming is scheduled throughout the year, rather than in defined blocks, as is often done internationally.
- In order to keep audiences informed of when programmes are repeats, all repeats, excluding cross-channel repeats and repeats of programmes first broadcast on other broadcasters, are clearly labeled in any marketing and promotion material and on-screen. The on-screen symbol is shown for 180 seconds at the beginning of programmes and for 30 seconds after ad-breaks, in line with the requirements of the Broadcasting Complaints Commission of South Africa.

Given the above, the SABC does not believe this is a matter that requires regulation by the Authority.

The SABC recommends that the minimum hours proposed in the licence conditions should be inclusive of repeat broadcasts.

3.1.9 Summary of general proposals made on programming

The SABC has made the following broad proposals in relation to its programming licence conditions.

Firstly, we have proposed an incremental approach to the achievement of the conditions.

Secondly, in relation to improving flexibility, we have proposed the following:

- All programming requirements should be made weekly
- A clause should be inserted allowing for temporary exemption from licence conditions to be sought

We have also made the following additional proposals in relation to programming:

- The Authority's proposed clause 2.1.2 / 4.1.2 in Schedule C should be deleted
- The effective date for the licences should be 1 April 2006
- The minimum hours in the licence conditions should include repeats

We will now consider the specific television and radio proposals in some detail.

3.2 TELEVISION

3.2.1 Introduction

In its amendment application the SABC highlighted how South Africa's television market has changed since the introduction of e.tv in 1998. The television market is now a highly competitive one, within which the SABC channels compete against both terrestrial and satellite competitors for audiences and revenue.

In this context, delivering public television programming to mass audiences is becoming increasingly difficult. Audiences have wider choice and are increasingly fragmented and attracted to subscription platforms and commercial offerings. SABC Television has risen to this challenge and continues to attract large audiences through the delivery of a range of quality mandate driven television programmes far in excess of that provided by commercial competitors.

The SABC's strategy has been not to dilute its public interest delivery, or confine "mandate programming" to the margins of the schedule, but to embed the mandate in the majority of its programming. This has seen, for instance, prime time educational dramas in African languages being broadcast – a first for South Africa.

Although SABC Television's public mandate delivery has been significant, some of the proposals from ICASA far exceed what the SABC is currently delivering. The SABC has undertaken a detailed analysis of the impact of the proposed ICASA conditions for television if these conditions were to be implemented immediately. The results are disturbing:

- For the SABC to meet the 80% quota for language delivery, the corporation would have to invest an additional ±R503m on its current budget for 2005/2006 for its PBS Television services;
- The additional investment on these services would not be absorbed by the advertiser market, in fact, the proposed language requirement will result in projected 16% decline in audience share and as a consequence decline in advertising revenues for SABC 1 and SABC 2. The SABC's conservative estimates put this loss at ±R265m
- Furthermore, the SABC would have to terminate almost all its contracts for foreign content (Soaps, Movies, Series, Sitcoms and Documentaries) with international studios in order to deliver on this requirement. The total penalty costs for canceling existing contracts for the PBS Television services will amount to R350m
- In addition to this, the impact on SABC 3 is envisaged to be approximately R151m (additional investment as a result on proposed conditions) with a revenue loss of R63m (resulting from weakened competitiveness of channel)
- The total impact of full compliance on SABC television channels would therefore be R1.3bn in the first licence year

The Authority has not provided details of whether any financial modeling was completed with regard to the proposed licence conditions for television. The SABC submits that the impact laid out above could not have been what the Authority intended to achieve with the proposed conditions. With these conditions, delivery of public service broadcasting will become unsustainable, not only for television, but for the SABC as a whole.

The SABC has three main proposals for the Television licence conditions:

- An alternative “incremental” proposal on Language, including marginalised languages

- Alternative genre quotas with gradual increases for Current Affairs and Documentary programming over the licence period and additional programming in the IKB genre
- A proposal that news should be measured on a weekly basis.

3.2.2 Language

SABC support for language equitability

The SABC's mandate to broadcast equitably in all official languages is among its most challenging obligations and is one that the SABC has dedicated significant resources to addressing. As the Authority is aware, the Corporation's new editorial policy on Language came into effect on 1 April 2004 and lays the foundation for improved language delivery.

Under the leadership of its Board, the SABC is expecting in mid-2005 to publish its first "annual action plan" on language which will detail the progress made in improving language equitability over the last year. Among the key factors in the implementation of the policy in the first year of its existence were the following:

- 2004/05 saw the gains in language delivery made in previous financial years being consolidated. With the introduction of the minority language news bulletins in 2002 and 2003, PBS television news began to broadcast in all 11 official languages for the first time. As such PBS television confirmed its status as the country's key driver of African language television programming.
- The 2004/05 financial year sought to build on the previous achievements expanding the percentage of programming in African languages, particularly in prime time on the PBS channels, and increasing the genres catered for. In particular, 2004/05 saw the increased use of multilingual programming on PBS television to achieve the language mandate. It is

one of the aims of the SABC's Language policy to promote multilingualism in South Africa and multilingual television programming is an increasingly important tool used by the SABC in achieving this goal.

Inhibiting factors for language equitability

Although there were a number of activities undertaken to support the implementation of the Language policy, certain factors inhibited the effective implementation of the policy and the realisation of the Language policy goals.

Key amongst these was the limited number of television platforms. With two national PBS channels there is simply not enough space on the schedules to cater adequately for each official language. In determining that the SABC should apply for additional regional channels which should broadcast predominantly in languages other than English, Parliament appears to have concurred that the SABC requires additional platforms to deliver its language mandate. The SABC submits that in determining the language delivery of the national television channels, the Authority should have regard to the two regional television channels, the applications for which are currently before the Authority.

Another factor which impacts on the SABC's language delivery is that, in order to play a meaningful nation-building role in South African society, the SABC must draw large audiences. On the national channels large blocks of unilingual programming and programming in marginalised languages, fragments audiences and is therefore often precluded as the broadcaster must prioritise languages which can be widely shared and understood. It is again in this context that the SABC eagerly anticipates the licensing of the regional channels which would enable it to vastly improve its language delivery.

SABC increased African language programming

In these circumstances, the SABC's increase in African language programming in prime time television year-on-year, is significant. In the 2002/2003 and 2003/2004 financial years, delivery increased by an average of 40% for African Languages/Groups and 11% for Afrikaans programming. By the end of the next financial year the SABC expects that both channels will be delivering a majority of African language programming.

	2002/03	2003/04	2004/05	2005/06
SABC 1	29%	39%	41%	50%
SABC 2	53% (31% Afrikaans)	58% (34% Afrikaans)	58% (32% Afrikaans)	65% (27% Afrikaans)

% other than English in prime

In making these incremental increases, the SABC has had to balance the constitutional requirements for equitable language coverage with its resource constraints.

The SABC is well aware of the expectations of its audiences for improved language delivery and agrees that commitments to increasing language delivery should be made. However, we believe these increases should be focused in prime time and should be phased in gradually.

Financial impact of ICASA proposal

As has already been stated, for the SABC to meet the 80% minimum African language delivery, the Corporation would have to invest an additional ±R503m on its current budget per annum and would have a total impact of R1.3bn. In the context of the SABC's current funding structure, these costs could not be supported. The imposition of these licence conditions would therefore have dire financial consequences for the SABC. It is highly unlikely that the combined

Television and Radio CBS services of the corporation could add an additional R1.3bn on their advertising revenues in order to cross-subsidise SABC 1 and SABC 2.

The SABC submits that the Authority could not have intended to place on the Corporation an obligation with such a severe impact on its financial well being.

Limited capacity of independent production sector to produce in African languages

A further concern around the current proposals on language is the capacity of local production industry to deliver programmes in African languages. The SABC believes that the industry currently lacks the capacity to produce the quantity of African language programming required by the Authority. In this regard, we point the Authority to the comments of the National Film and Video Foundation (NFVF) which states that these are realistic targets to achieve over the medium to long term (own emphasis) and that they may need to be staggered. In addition to this, MMP suggests that “the 80% level stipulated be set as a long term goal (own emphasis) to be achieved over a practical time period, to be decided on by the Authority and the SABC. Guy Berger also agrees that the 80% language requirement may be too onerous for the SABC⁸.

In this regard the SABC has canvassed members of the production industry on whether the quota would be realistic⁹. Due to the limited time available to compile this response, only 12 companies were able to respond to the SABC’s request for information. The responses generally indicate that the 80% quota will be difficult for independent producers to meet.

⁸ See submissions dated 14 March 2005.

⁹ The SABC distributed a questionnaire among randomly selected independent producers although particular care was taken to include producers currently working with African languages and producers outside of Gauteng.

In answer to the question on how the stipulations would impact on the independent producer's business, these were among the responses:

"I believe it will impact negatively...even with the diversity of race in our company the majority do not speak the Nguni and Sotho languages well. We also struggle to find qualified crew, especially editors and directors who understand the languages well." (Underdog productions)

"We will need to have people knowing all languages – unrealistic" (Pasop! Pictures)

"The majority of the acting talent in the Western Cape, given its demographics, will face starvation as they already have few opportunities" (Ancestral Vision Pictures)

In support of the proposal, there was a comment that:

"If there is an increased demand for programming in the above languages it can only be to our benefit" (Word of Mouth Productions)

Most responses pointed particularly to the lack of scriptwriters as an inhibiting factor for meeting the quota:

"There is definitely NOT enough writers who could write good scripts in the above (Nguni and Sotho) languages" (Word of Mouth)

"In the Western Cape we definitely don't have enough experienced writers who could originate a script in Xhosa, Zulu or Sotho" (Ancestral Vision Pictures)

"No there are certainly NOT enough writers available to originate scripts in languages other than English and Afrikaans" (Underdog)

This view is supported by the South African Scriptwriting Association (SASWA) which informed the SABC of its difficulty in generating African language scripts:

SASWA statement of language use in recent skills programmes for scriptwriting

The South African Scriptwriters' Association recently ran two skills programmes for entry level scriptwriting in KZN, which highlighted the challenges involved in getting writers to use their mother tongue. The skills programme was designed to support the community-based writer, teach the additional writing skill of scriptwriting, empower the writer with the jargon of scriptwriting and nurture the entrepreneurial skills required of this craft, yet at all times protecting the writer's creative integrity.

The PR campaign was extensive. It was launched at the KwaMashu Film Festival in December 2004 and finally reached rural and urban community newspaper readers across KZN. We stipulated that the entry requirements allowed for submissions in isiZulu or English. The selection process focused on the quality of storytelling.

Of the 148 submissions received, 94% were from black South Africans but only 54% of these were in isiZulu. In the final selection of 20, 18 writers were black and of the 20 projects, 50% were in isiZulu. In the final selection it was also interesting to note that of the 20, 13 had a tertiary education and only 5 of these in a drama-related degree. This we noted in hindsight as interesting, as this phenomenon can be compared to the international film and television community where most scriptwriters have a tertiary or a post graduate degree.

The selection team, comprising professional scriptwriters, most of whom were fluent in isiZulu, noted that many submissions that were in English would have been stronger if they had submitted in the mother tongue (isiZulu). This opinion

is a subjective evaluation but was also based on an assessment of fluency in language use and creative expression. SASWA trainer, scriptwriter and mentor, Mtuthuzeli Matshoba states, "I believe that many exciting stories do not see the light of day because of language constraints and inability to formulate proposals."

SASWA also notes, as a stakeholder in the Sediba script development programme, which targets professional writers, that of 64 treatment formats or full script submissions, that English-use was 100% in the 2005 call. Only 20 of the 64 were black writers. The SASWA and Sediba example reflect on the need to develop writer's confidence to use his or her mother tongue. It is clear that partnerships have to be forged and a strategy developed that will support writers in the use of SA languages other than English. Transformation and empowering writers in their mother tongue in the film and television industry has a long way to go.

Compiled by

SASWA Co-Chair Cati Weinek

and

SASWA Training Co-ordinator, Karin Duma

March 2005

In summary, among the various difficulties with African language productions pointed to by independent producers are the following:

- Shortage of scriptwriters
- Reliance on translators, risk of errors
- Longer production time and post-production due to translation – therefore higher costs
- Shortage of language advisers
- Lack of language skills among creative, production and technical crew

The SABC urges ICASA to take these factors into consideration when making its final decision on the language quota.

Setting a language quota

The SABC has a number of proposals to make on the language quota, each of which we believe will strengthen language delivery.

Firstly, the SABC proposes that the language quota be set for prime time – when the greatest number of people are available to watch television - rather than over the 24 hour schedule, as proposed by the Authority.

The SABC is unaware of any precedent for the Authority to prescribe programme content obligations over a 24 hour period. The consequence of ICASA's requirement would be that SABC 1 and 2 would have to offer 134 hours of programming in stipulated African languages per week. As there are only 126 hours in the SABC's performance period over a week, all these hours would be used for African language programming, in addition to which a further 8 hours a week would need to be broadcast in the early morning between 11am and 5am when available viewership is low. This is clearly not the best allocation of resources.

The SABC believes it would be wasteful for the SABC's language quota to be set over a full day period. The SABC believes the investment in language should

rather be targeted at prime time, when most audiences watch television. In this proposal we are supported by e.tv¹⁰.

In order to maximize language delivery while supporting the channels' competitiveness, we also believe that the language quota should be shared among all terrestrial platforms. We are therefore pleased to propose that the commercial channel, SABC 3 should also make a contribution to language delivery.

As to the level of the quota, the SABC agrees that the majority of programming, in prime time, should be in the official languages, excluding English, which traditionally has received an inequitable share of airtime. While we therefore support the Authority's sentiments in proposing a high quota of 80%, we respectfully submit that this is not sustainable. The 80% quota would mean that local English programming and foreign programming would be virtually excluded from the SABC's screens. Aside from having a very detrimental impact on audiences and revenues, this is also incompatible with the SABC's nation-building role. Currently, local programmes such as Generations, which use English and African languages in a multi-lingual format, are widely watched. The imposition of the 80% language quota would mean that English would need to be completely phased out of such programmes, thereby excluding a large portion of the audience (sometimes 35% of the audience) which does not speak African languages but which regularly watches these programmes. The SABC submits this would be counter to audience interests and to the SABC's nation-building role.

In setting the language quota, the SABC also submits that the Authority should take into account the compounded impact of the language obligations and the genre obligations which have been proposed. For example, in terms of ICASA's proposals, the SABC PBS channels will need to broadcast 24 hours of drama / week. In order to meet the language quota, 80% of this will have to be in African

¹⁰ e.tv submission dated 14 March 2005

languages which essentially means that, the local quota for drama rises from 35% to approximately 80%. This is extremely high for a costly genre like drama and is not financially sustainable.¹¹

The SABC is also concerned by the stipulation that the 80% quota should be made up of specific African languages. In terms of this stipulation a Sesotho drama broadcast on SABC 1 would not count towards the quota, as the Authority has stipulated that the 80% may be made up only of Nguni languages. The SABC believes this works against the goal to increase African languages and perpetuates an outdated approach to language.

Finally, the SABC believes some attention should also be given to marginalized languages. The SABC is therefore pleased to propose a specific quota for marginalized languages for its PBS channels, in line with its editorial policy on language. This quota would be gradually increased throughout the language period.

SABC proposal

In considering all the above factors, the SABC proposes the following language quotas. The SABC believes these are aggressive quotas which can be met without causing revenue and audience decline, if phased in gradually.

	SABC proposals Effective date (06/07)	SABC proposals Year 6 (09/10)	SABC proposals End of licence (11/12)
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¹¹ It should be noted that although the Authority has stated that dubbed programmes would be able to count towards the language quota, the SABC does not envisage dubbing to be acceptable to its audiences in any genres aside from children's programming.

SABC 1	52% other than English in prime time 5% marginalised languages	60% other than English in prime time 10% marginalised languages	65% other than English in prime time 10% marginalised languages
SABC 2	65% other than English in prime time 5% marginalised languages	70% other than English in prime time 10% marginalised languages	70% other than English in prime time 10% marginalised languages
SABC 3	5% other than English in prime time	8% other than English in prime time	10% other than English in prime time

The SABC therefore proposes the following amendments to the licence conditions:

The SABC proposes the amendment of clause 3.1 in Schedule C in the SABC 1 and SABC 2 licences¹²:

In the case of SABC 1:

“3.1 ensure a [balanced and reasonable] spread of [the various Nguni] languages **other than English** throughout the [various programme genres] performance period **and particularly at prime time**”.

In the case of SABC 2:

“3.1 ensure a [balanced and reasonable] spread of [Afrikaans, the Sesotho languages, xiTsonga and tshiVenda] languages **other than English** throughout the [various programme genres] performance period **and particularly at prime time**”.

¹² Please note that throughout the document wording in bold indicates insertions and wording in brackets indicates deletions.

The SABC proposes the deletion of clause 3.2 in Schedule C in the SABC 1 and SABC 2 licences and its substitution with the following:

In the case of SABC 1:

“3.2 progressively increase the proportion of programming provided in the official languages, excluding English and Afrikaans, in order that on the effective date, no less than 52% of its prime time programming is broadcast in the official languages, excluding English and Afrikaans, 5% of which shall be provided in marginalized languages, and further provided that:

3.2.1 from year 6 of the licence onwards, 60% of its prime time programming is broadcast in the official languages, excluding English and Afrikaans, 5% of which shall be provided in marginalized languages

3.2.2 by the end of the licence term and thereafter, 65% of its prime time programming is broadcast in the official languages, excluding English and Afrikaans, 10% of which shall be provided in marginalized languages”.

In the case of SABC 2

“3.2 progressively increase the proportion of programming provided in the official languages, excluding English, in order that on the effective date, no less than 65% of its prime time programming is broadcast in the official languages, excluding English, 5% of which shall be provided in marginalized languages, and provided that:

3.2.1 from year 6 of the licence onwards, 70% of its prime time programming is broadcast in the official languages, excluding English, 10% of which shall be provided in marginalized languages”.

In the case of SABC 3, we recommend the amendment of clause 3 as follows:

“The licensed service shall be provided predominantly in English **provided that, on the effective date, no less than 5% of prime time programming is broadcast in the official languages, excluding English, rising to 8% by year 6 of the licence and 10% by the end of the licence period”.**

The SABC has further proposals on language which are detailed in section 4 of the submission.

3.2.3 Genre quotas

In line with the “incremental approach”, already described, the SABC has made proposals on the genre quotas to be captured in the licence conditions. In most of these genres, the Authority’s proposals will be fully complied with and, sometimes even exceeded. In only two of the genres, documentary and current affairs, are the SABC’s proposals slightly lower than the Authority’s. The SABC submits that the genres for documentary and current affairs should be viewed together with the quota for IKB programming, for in the latter genre the SABC will be exceeding the ICASA proposals. Viewed collectively therefore, the SABC will broadly be providing information programming in line with ICASA’s proposals. It should also be noted that the SABC does not believe it is feasible to have more than 5 hours / week of documentary and current affairs programming, taking into account weekend schedules, and the pressures on these schedules for sports programming in particular.

A summary of the proposed genre quotas per channel is as follows:

SABC 1

	ICASA Proposed Conditions	SABC proposals Effective date (06/07)	SABC proposals Year 6 (09/10)	SABC proposals End of licence (11/12)
Drama	24 hours / week 5 hours in prime 2.5 hours in prime (SA)	24 hours / week 8 hours in prime 4 hours SA in prime	24 hours / week 8 hours in prime 4 hours SA in prime	24 hours / week 8 hours in prime 4 hours SA in prime
News	1 hour / day 30 min in prime	7 hours / week 3.5 hours in prime	7 hours / week 3.5 hours in prime	7 hours / week 3.5 hours in prime
Current Affairs	7 hours / week 2 hours in prime	2 hours / week 1 hours in prime	4 hours / week 2 hours in prime	5 hours / week 2 hours in prime
IKB	14 hours / week 2 hours in prime	10 hours / week 2 hours in prime	16 hours / week 2 hours in prime	16 hours / week 2 hours in prime
Documentary	7 hours / week 2 hours in prime	3 hours / week 1 hours in prime	4 hours / week 2 hours in prime	5 hours / week 2 hours in prime
Children's	12 hours / week	20 hours / week	20 hours / week	20 hours / week
Education	6 hours / week	10 hours/ week	10 hours/ week	10 hours/ week

SABC 2

	ICASA Proposed Conditions	SABC proposals Effective date (06/07)	SABC proposals Year 6 (09/10)	SABC proposals End of licence (11/12)
Drama	24 hours / week 5 hours in prime 2.5 hours in prime (SA)	24 hours / week 8 hours in prime 4 hours SA in prime	24 hours / week 8 hours in prime 4 hours SA in prime	24 hours / week 8 hours in prime 4 hours SA in prime
News	1 hour / day 30 min in prime	7 hours / week 3.5 hours in prime	7 hours / week 3.5 hours in prime	7 hours / week 3.5 hours in prime

Current Affairs	7 hours / week 2 hours in prime	2 hours / week 1 hours in prime	4 hours / week 2 hours in prime	5 hours / week 2 hours in prime
IKB	14 hours / week 2 hours in prime	18 hours / week 2 hours in prime	18 hours / week 2 hours in prime	18 hours / week 2 hours in prime
Documentary	7 hours / week 2 hours in prime	4 hours / week 1.5 hours in prime	5 hours / week 2 hours in prime	5 hours / week 2 hours in prime
Children's	12 hours / week	15 hours / week	15 hours / week	15 hours / week
Education	6 hours / week	10 hours/ week	10 hours/ week	10 hours/ week

SABC 3

	ICASA Proposed Conditions	SABC proposals Effective date (06/07)	SABC proposals Year 6 (09/10)	SABC proposals End of licence (11/12)
Drama	18 hours / week 2.5 hours in prime (SA)	20 hours / week 3 hours SA in prime	20 hours / week 3 hours SA in prime	20 hours / week 3 hours SA in prime
News	1 hour / day 30 min in prime	7 hours / week 3.5 hours in prime	7 hours / week 3.5 hours in prime	7 hours / week 3.5 hours in prime
Current Affairs	7 hours / week 2 hours in prime	5 hours / week 1 hours in prime	5 hours / week 1 hours in prime	5 hours / week 1 hours in prime
IKB	12 hours / week 2 hours in prime	11 hours / week 2 hours in prime	12 hours / week 2 hours in prime	12 hours / week 2 hours in prime
Documentary	5 hours / week 2 hours in prime	4 hours / week 1.5 hours in prime	5 hours / week 2 hours in prime	5 hours / week 2 hours in prime
Children's	6 hours / week (within 18 months) 12 hours/week (from month 36)	7 hours / week	12 hours / week	12 hours / week

Although the SABC maintains that comparisons between its delivery and that of e.tv are irrelevant, we nevertheless wish to point out that the above proposals exceed that required of e.tv.

Licence conditions

In line with these proposals, the SABC recommends that the hourly programme requirements be amended accordingly.

3.2.4 The stipulation that News is carried on a daily basis

The SABC welcomes the proposals made by the Authority with regard to News programming. However, the corporation has reservations about delivery of News programming on weekends, specifically, the minimum 1-hour a day. On the PBS Television services, weekend schedules are largely driven by Sports and Events of National Importance. The requirement to broadcast minimum of 1-hour of news programming on weekends would require SABC to broadcast at least 30 minutes of news programming during the early morning daypart – a timeslot that generally has low audiences as television competes with other activities.

News programming is one of the key drivers of the SABC's programming costs and the corporation generally broadcasts News programming at times when there are high available audiences. Whilst the SABC does provide news programming on weekends, these bulletins are generally broadcast during prime time only. The SABC's television services would therefore not be able to meet the requirement for an hour of news each day. The SABC therefore proposes that these requirements be made weekly.

The SABC recommends that clause 2.2.1 of Schedule C of all television services be amended as follows:

“2.1.1 The licensee shall in the provision of the licensed service, broadcast at least [one] **seven** hours of news programming [each day] **per week** during the South African performance period of which [at least 30 minutes shall be packaged as a single programme] **3.5 hours** shall be broadcast during prime time.”

3.3

3.3.1 2.2.5 Summary of proposals on television

The SABC has made the following proposals in relation to its television licence conditions:

Firstly, we have proposed that the language quota be revised as follows:

- That it be lowered from the proposed 80%
- That it be set for prime time
- That it include reference to marginalized languages on SABC 1 and 2
- That a language quota also be applied to SABC 3

Secondly, we have proposed various amendments to the genre quotas, so that some of these quotas are met incrementally over the licence period.

Lastly, we have proposed that the news requirement be made a weekly requirement.

We will now consider the radio proposals.

3.4 RADIO

3.4.1 Introduction

It is perhaps in the area of radio that the SABC is most unique. With 15 PBS stations broadcasting in 17 languages in all the provinces of the country and with three successful commercial stations, the SABC offers radio listeners a range of services unmatched by either the community or commercial radio sectors.

In setting licence conditions for the SABC's radio services, the Authority generally appears to have attempted to capture the status quo of these services. Aside from a few cases, the Authority has not proposed significant programming changes. The SABC welcomes this and interprets this as a vote of confidence in the programme offerings of its radio services.

3.5 PBS RADIO

As far as the draft conditions for PBS Radio are concerned, there are six areas of concern, which the SABC proposes should be addressed.

3.5.1 Radio 2000

The Authority has proposed two significant changes to Radio 2000. These are in clauses 2 and 3 of Schedule C, namely "Format" and "Broadcast Language".

The station's current licence specifies as follows:

"The service is a facility service providing a wide spectrum of programming, including education, sports, religious and spiritual programming, simulcast for television programming, music in a range of South African languages."(own emphasis)

The Authority has proposed the replacement of the above clause with the following two clauses:

Proposed licence condition: Clause 2: Format

“The licensed service shall be a facility service including education, sports and religious programming as well as music in a range of genres in all official languages.” (own emphasis)

Proposed licence condition Clause 3: Broadcast language

“The licensee shall provide the licensed service in a reasonable and balanced spread of all official languages”

The Authority has unfortunately not provided reasons as to why Radio 2000’s licence should be amended in this fashion. In the absence of such reasons, the SABC respectfully submits that the proposals fail to fully appreciate the nature of the service which Radio 2000 provides and are likely to cause disruption to the service.

Radio 2000, as a facility service, has built its audience on the broadcast of sports, events of national importance and music. Through this service the SABC provides a truly unique offering in the South African broadcasting landscape. Were it not for Radio 2000, many South Africans would not have had access to important national events as diverse as the Truth Commission, the World Summit on Sustainable Development, the Walter Sisulu funeral and the Rugby World Cup.

Currently, Radio 2000’s programming takes place in English, although music is played in a range of South African languages. The SABC submits that English is an appropriate broadcast language for a facility service, as it is a widely

understood and accepted language. In the SABC's Language Comprehension study in 2003, across all age groups English was reported as the most commonly understood language in SA, followed by Zulu and Afrikaans.

Language Comprehension 2003

LANGUAGE	16 - 24	25 – 34	35 - 49	50 +	TOTAL
ENGLISH	86.6	86.5	75	64.5	78.7
AFRIKAANS	35.4	45.2	52.9	52	46.1
ISIZULU	40.8	9.1	40.5	35.2	40.4
ISIXHOSA	28.7	31.3	28.8	25.8	28.7
SESOTHO	19.5	27.7	25.3	20.7	23.3
SEPEDI	22	23.6	21.2	17.8	21.3
SETSWANA	20.5	23.6	21.8	16.8	20.8
XITSONGA	7.7	44.3	12.2	8.8	9.5
SISWATI	6.2	8.6	9.8	6.6	7.8
ISINDEBELE	6.2	6.2	7.4	5.4	6.4
TSHIVENDA	3.2	3.6	3.9	5.1	3.9

The SABC strongly believes that the introduction of the Authority's proposed licence condition relating to broadcast language would have a significantly detrimental impact on the Radio 2000's audience.

In addition to this, the licence condition contemplates that there should be "a balanced spread of all official languages". Over an 18 hour broadcast day, there would therefore be approximately 1 hour 40 minutes of programming per language.

The SABC foresees that this would be disruptive for the audience and would cause widespread switch-off. As there will be no language consistency for any length of time, we expect that listeners will migrate to stations consistently offering their language of choice. The SABC is unaware of any precedent for multilingual radio taking place in 11 languages and believes this concept is unfeasible.

The proposed licence conditions also change the obligation of Radio 2000 to broadcast music in a "range of languages" to broadcast "music in all official

languages". The current licence condition which requires broadcasting music in a range (own emphasis) of official languages, is directory and allows the station the flexibility to schedule music in different languages in a manner that suits the positioning of the station and its audience. As the Authority is aware, the station complies with this condition and broadcasts music in many African languages. In contrast to the current condition, the proposed amendment is peremptory and leaves the station with no choice but to broadcast music in all languages despite the station's positioning, audience, capacity and resources. Compliance with this condition would require a new playlist to be developed. This will have staffing, cost and time implications.

Aside from the practical implications of these conditions which have been laid out above, the SABC is uncertain as to the legislative basis for the Authority's decision to require all official languages to be broadcast on a single service. Section 10(1)(a) of the Broadcasting Act is clear that it is the obligation of the Corporation to "make services available in all the official languages". It is not stated that this obligation should rest on a single service and this approach has, correctly in the SABC's view, not been taken on any other service.

In summary, the SABC submits that the Authority's proposed licence conditions for this station could seriously inhibit the ability of the station to perform a facility service role.

The SABC recommends that clauses 2 and 3 of Schedule C of the Radio 2000 licence are amended as follows:

2. Format

The licensed service shall be a facility service including education, sports and religious programming as well as music in a range of genres [in all] **and official languages.**

3. Broadcast Language

Replacement of the clause with the following:

The licensee shall broadcast predominantly in English.

3.5.2 RSG – Children’s programmes

There is a single difficulty with the proposed RSG licence which relates to the amount of children’s programming to be broadcast. In clause 4.4. in Schedule C, the Authority requires that the station broadcast at least one hour of programming per day targeted at children.

The SABC respectfully submits that this condition is not reasonable, given that the station is currently only broadcasting 5 minutes of children’s programming per day. The SABC submits that the Authority should have regard to the station’s current performance as it has in other instances. In this regard, we draw the Authority’s attention to the licence conditions for SAfm. SAfm is currently broadcasting an hour / week of children’s programmes. The Authority has stipulated that the station should continue to broadcast a minimum of an hour / week but should increase this to 2 hours within 18 months. The SABC recommends a similar approach for RSG.

The potential impact of the Authority’s proposals for an hour/ day of children’s programmes on RSG is laid out below:

- To increase children’s programming as per the proposed licence conditions, this programming would have to be scheduled when children are available (0-6 yrs in the morning and 7-12 yrs in the afternoon). This would disrupt, on a daily basis, the station’s very successful day-time schedule of personality based shows. We envisage that the audience and

revenue impact could be negative. Current adult audience will probably switch away, while it will be difficult to attract a children's audience to replace the adult audience, given the many other children's media brands in the market. RSG children's programming will find it extremely difficult to compete with the children's programming on offer on SABC TV and satellite TV, as well as computer and cell phone games. As a result sponsorships and classical advertising for these slots will in our view also decrease.

In spite of the above difficulties, the SABC recognizes that children's programmes should be a feature of all its public broadcasting schedules. Given its current level of delivery however, the station requires a more incremental approach.

The SABC proposes that clause 4.4 of Schedule C of the RSG licence be amended as follows:

4.4 The licensee shall in the provision of the licensed service, **within 18 months of the effective date broadcast at least one hour of programming targeted at children (as contemplated in section 10(1)(g) of the Broadcasting Act [per day] **per week** during the South African performance period **to be increased to two hours per week within 36 months of this licence being issued.****

3.5.3 Radio Lotus – drama programmes

As with RSG, there is only one main difficulty with the proposed Lotus FM licence. In the case of Lotus, this relates to the amount of drama programming to be broadcast. In clause 4.4. in Schedule C, the Authority requires that the station broadcast at least 2 hours of drama per day, weekdays.

The SABC respectfully submits that this condition is unreasonable, given that the station is currently only broadcasting 4 hours a week, which takes place on weekends. This obligation is also significantly higher than what has been stipulated for any other station, with most other stations only required to broadcast 30 minutes of drama per day. The SABC again submits that the Authority should have regard to the station's current performance as it has in other instances. There would be significant disruption to the station's schedule, audience and revenue, were the station to be held to the proposed requirement.

Additionally, the station caters for five Indian languages and the content produced would need to factor this into our production process.

The SABC proposes that clause 4.4 of Schedule C of the Lotus FM licence be amended as follows:

4.4 The licensee shall in the provision of the licensed service, **within 18 months of the effective date broadcast at least [two] **four** hours of drama [per day, weekday] **per week** during the South African performance period.**

3.5.4 Drama on XKFM

XKFM does not broadcast drama and it would be a significant challenge to introduce this genre on the station, even by the end of the licence period as proposed by the Authority. Due to the nature and complexities of XKFM and given the fact that the languages broadcast are not written and that there are no drama scripts available, extensive research and development would be required before this genre could be introduced. As the station is more "community "in orientation, we submit that the stipulation for drama should be reviewed.

The SABC proposes the deletion of clause 4.6 in the XKFM licence.

3.5.5 Programming on weekends

Earlier in the submission in section 2.1.3 dealing with the Measurement Period, we alluded to the schedule changes which often take place on weekends. This is relevant to requirements that the Authority has set for daily news, current affairs and children's programmes on radio.

- **Children's programmes**

As far as children's programmes are concerned, most PBS stations broadcast at least an hour of children's programming each weekday. But the amount of children's programmes broadcast on weekends is generally less (approximately an hour over the whole weekend). There are a variety of reasons for this, including the fact that weekend schedules often carry live sport which precludes the broadcasting of programmes carried Monday to Friday. This means that stations will be below the "one hour per day" requirement.

For this reason, the SABC proposes that the requirement on children's programming is made weekly, rather than daily. In terms of the SABC' proposals stations would generally deliver 7 hours of children's programming per week, which effectively amounts to an hour a day.

The SABC proposes that clause 4.4 in Schedule C of all the PBS Licences except XKFM, Radio 2000, SAfm, Lotus, CKI and RSG is amended as follows:

4.4 The licensee shall in the provision of the licensed service, broadcast at least [one] **seven** hours of programming targeted at children (as contemplated

in section 10(1)(g) of the Broadcasting Act [per day] **per week** during the South African performance period.

- **News and current affairs programmes**

Much the same holds for news and current affairs programmes. On weekends, news diaries are generally quieter and there is less demand for news and current affairs programming from audiences. There is also fewer staff available to package such programmes. Therefore, while the SABC does provide news and current affairs programming on PBS radio over weekends, it is not at the same level as during the week. Stations would therefore not be able to meet the requirement for an hour of news and current affairs each day. The SABC therefore proposes that these requirements be made weekly.

The SABC proposes that clause 4.2 in Schedule C of all the PBS Licences except Radio 2000 is amended as follows:

In the case of all licences, except SAfm and XKFM:

4.2 The licensee shall in the provision of the licensed service, broadcast at least [one] **seven** hours of news programming [each day] **per week** during the South African performance period.

In the case of SAfm:

4.2 The licensee shall in the provision of the licensed service, broadcast at least [90 minutes] **ten and a half** hours of news programming [each day] **per week** during the South African performance period.

In the case of XKFM:

4.2 The licensee shall in the provision of the licensed service, broadcast at least [30 minutes] **three and a half** hours of news programming [each day] **per week** during the South African performance period.

The SABC proposes that clause 4.3 in Schedule C of all the PBS licences except Radio 2000 is amended as follows:

In the case of all licences except SAfm, CKI, XKFM and Lotus:

4.3 The licensee shall in the provision of the licensed service, broadcast at least [one] **seven** hours of [information and] current affairs programming [each day] **per week** during the South African performance period.

In the case of SAfm:

4.3 The licensee shall in the provision of the licensed service, broadcast at least [four] **twenty eight** hours of [information and] current affairs programming [each day] **per week** during the South African performance period.

In the case of Lotus:

4.3 The licensee shall in the provision of the licensed service, broadcast at least [90 minutes] **ten and a half** hours of [information and] current affairs programming [each day] **per week** during the South African performance period.

In the case of CKI and XKFM:

4.3 The licensee shall in the provision of the licensed service, broadcast at least [30 minutes] **three and a half** hours of [information and] current affairs

programming [each day] **per week** during the South African performance period.

3.5.6 Measurement period for drama

In line with the arguments made earlier, the SABC requests that the requirement for drama be standardized as a weekly obligation, instead of a weekday obligation. This will assist stations on those occasions when their schedules are disrupted due to coverage of special events.

The SABC proposes that clause 4.6 in Schedule C of all the PBS Licences except Radio 2000, XKFM, Radio Lotus, CKI and SAfm is amended as follows:

4.6 The licensee shall in the provision of the licensed service, broadcast at least [30 minutes] **two and a half** hours of drama programming [each day, weekday] **per week** during the South African performance period.

3.5.7 XKFM

The SABC notes that the Authority appears to have mistakenly renewed the licence of XKFM which was due to expire on 3 August 2006.

The SABC proposes that this be corrected and that the expiry date of 3 August 2006 be inserted in the licence.

3.5.8 Summary of proposals for PBS radio

The SABC has made the following proposals for PBS Radio:

- The language obligations on Radio 2000 should be amended
- The children's obligations on RSG should be amended

- The drama programming obligations on Lotus FM should be amended
- The stipulation that XKFM should carry drama should be amended
- The news, current affairs and children's programming obligations should be made weekly, instead of daily

We have also pointed out that XKFM's licence has been mistakenly renewed.

3.6 CBS RADIO

The approach taken by the Authority in setting licence conditions for the SABC's CBS Radio services, closely emulates the approach taken in setting conditions for private sector commercial radio stations. The SABC believes this is correct. It is in one key respect that the licences of the SABC's CBS Radio services differ from those of the commercial sector and that is with respect to clause 2.3 in Schedule C.

“Clause 2.3

The licensee shall, in the provision of the licensed service, ensure that people with disabilities, regularly feature and participate in its programme material in accordance with the Integrated National Disability Strategy.”

The SABC agrees that this clause is an extremely important and worthy goal and commends the Authority on the inclusion. However, as most of the commercial radio schedules are made up of music, the SABC submits that this condition should not be confined to on-air contribution, but should also include community outreach programmes. The SABC also submits that this condition should not be formulated as a firm requirement (which is more appropriate for a PBS licence) but rather as a broad aim, much like clause 2.1 which states that “the licensee is encouraged to exceed the requirements imposed upon it by the applicable provisions of the Music Content Regulations”.

The SABC proposes that clause 2.3 in the CBS licences be amended as follows:

Clause 2.3

The licensee [shall] **is encouraged**, in the provision of the licensed service, **to** ensure that people with disabilities, [regularly] feature and participate in its programme material and **community outreach programmes** in accordance with the Integrated National Disability Strategy.

4

5 TECHNICAL AND DRAFTING ISSUES

5.1 SCHEDULE A

5.1.1 Definition of commercial broadcasting – Ad sub-clause 1.4

Clause 1.4 reads as follows:

“commercial broadcasting service” means any broadcasting service provided by the Licensee and falling within its commercial division

This definition, as proposed by the Authority is in conflict with the definition of commercial broadcasting services as defined in section 1 of the Broadcasting Act.

Section 1.1 of the Broadcasting Act defines a commercial broadcasting service as “a broadcasting service operating for profit or as part of a profit entity but excludes any broadcasting service provided by a public broadcasting licensee”.

As this definition is not alluded to in the substance of the licence conditions, the SABC submits that its relevance is superfluous and its inclusion in the interpretation provision of Schedule A is unnecessary.

The SABC submits that the relevant construction to be included should be one alluding to the commercial broadcasting division of the Corporation.

The SABC recommends the inclusion of the following definition to substitute for the definition of “commercial broadcasting service”:

“commercial service division” means the commercial service division of the Corporation contemplated in section 9 (1) (b);

5.1.2 Insertion of new definition “Effective date”

As stated earlier, although there is provision in the definitions for “licence period” and “licence year”, the SABC submits that the above definitions ought to be inclusive of an “Effective Date” definition, which ought to be detailed as being the 1st April 2006.

The SABC recommends the inclusion of the following definition:

“effective date” means the date from and upon which the licence conditions become effective being 1 April 2006.

5.1.3 Insertion of a new definition “Marginalized languages”

In line with the proposal that a specific quota be set for “marginalized languages” the SABC proposes the inclusion of the following definition:

“marginalized languages” means isiNdebele, Siswati, Xitsonga, TshiVenda”

5.1.4 Amendment of definition of “Republic” – Ad sub-clause 1.22

“Republic means the Republic of South Africa, [governed by the Constitution]”

5.1.5 Authorisation – Ad sub-clause 2.2

As mentioned earlier, the SABC is concerned about the Authority’s stipulation that certain languages are allocated to specific language groups. The SABC believes this requirement works against the goal to increase African languages and perpetuates an outdated allocation of languages. This provision also conflicts with clause 2.1.1.1 in Schedule C which commits the licensed service to provide a wide range of programming in the official languages (own emphasis).

The SABC recommends that clause 2.2 in Schedule A of the SABC 1 licence is amended as follows:

“The licensed service shall form part of the Licensee’s public service division and shall be a full-spectrum television service providing a programming mix of informative, educational and entertaining material in [the Nguni languages and English] **the official languages.**”

The SABC recommends that clause 2.2 in Schedule A of the SABC 1 licence is amended as follows:

“The licensed service shall form part of the Licensee’s public service division and shall be a full-spectrum television service providing a programming mix of informative, educational and entertaining material in [Afrikaans, the Sesotho languages, Xitsonga, TshiVenda and English] **the official languages”**

5.1.6 Station identification – Ad clause 5

The SABC submits that the stipulation of a maximum interval of 45 minutes for station identification is arbitrary and inconsistent with that of other broadcasters. For instance, e-tv’s licensing provision 6.3, reads as follows:

“The licensee must clearly identify itself, by its station identification, at least hourly during the broadcast period...”

The SABC therefore contends that the station identification ought to be effected at reasonable intervals without the stringent requirement for such identification to be effected at periodically stipulated intervals.

The SABC recommends the following amendment to clause 5.3

"The Licensee must clearly identify itself, by means of its station identification, [at intervals of not more than 45 minutes] **at reasonable intervals** throughout the broadcast period."

5.1.7 Hours of Broadcast – Ad clause 6

The SABC submits that the general thrust of the provision ought to reflect force majeure provisions, in as far as these provisions would serve to absolve the Corporation of any ensuing liabilities where there is non-compliance with the licence conditions, and also absolve the Authority of non-compliance with its regulatory impetus for ensuring regulatory adherence to the Broadcasting Act.

The SABC recommends that clause 6 be deleted and substituted by the following:

6.1 For the duration of the licence period, the Licensee shall provide the licensed service continuously throughout the broadcast period, without any interruption, unless:

6.1.1 Such interruption is due to circumstances beyond the direct or indirect control of the Corporation, including (without limitation) accident or breakdown of any equipment or apparatus (caused otherwise than by the wrongful act of neglect or fault of the Corporation or its servants or agents), war damage, terrorism, riots, or other industrial dispute.'

6.1.2 The Corporation shall take all reasonable steps to ensure the resumption of the licensed service without undue delay.

5.1.8 Programming – Ad clause 7

The SABC submits that amendments are required to clause 7.2 of Schedule A. This clause requires the SABC to make a substantive contribution to the achievement of various legislative requirements. The clause makes reference to requirements under section 2 of the IBA and the Broadcasting Act. However, section 2 of the IBA Act contains objects which the Authority is mandated to foster and does not set requirements for the SABC. The SABC would be unable to make a substantive contribution to many of these objects – for instance “to ensure that broadcasting services are not controlled by foreign persons”.

Likewise the section 2 in the Broadcasting Act sets objects for the country’s broadcasting policy many of which are not directly relevant to the SABC i.e “to provide access to signal distribution services for content providers”.

The reference to section 3 of the Broadcasting Act is also irrelevant as these are not requirements for the SABC, but are instead requirements for the broadcasting system as a whole.

While the SABC agrees these are worthy objects, their fulfilment cannot be made the responsibility of a single player in the broadcasting environment.

The SABC recommends the deletion of clause 7.2 in Schedule A.

5.1.9 Cross- subsidisation – Ad clause 9

The SABC is troubled by the breadth of clause 9 which seeks to impose conditions which go beyond the terms of the Broadcasting Act.

The SABC is mindful of the intent of the Authority in detailing cross-subsidisation conditions so as to ensure the autonomous operation of the commercial

broadcasting division and the public broadcasting division. Further, the Corporation is aware that the Authority wished to have this autonomous operability as a reflection of the Corporation being reorganised pursuant to section 22 of the Broadcasting Act 1999. Nonetheless, such intentions of detailing licence conditions aimed at reflecting reorganisation must necessarily be derived from the administrative capacity and function of the Authority. Section 11(d), in as far as it relates to the commercial service, mandates the imposition of cross-subsidisation determination within the exclusive competence of the Board, and thus beyond the regulatory capacity of the Authority.

The SABC is also troubled by the inclusion of the shared services division in possible cross-subsidisation. In the absence of a definition of the "shared services division" it would be impossible to implement. A shared service is precisely that and it is legitimate for the public service channels to pay their share. This will have to be determined by way of a formula. It would be almost impossible to identify impermissible cross-subsidisation by any other means. That in turn renders the clause in its present form useless. If the formula is correct then no cross-subsidisation takes place. If the condition is intended to prevent the public service division contributing to the costs of shared services then it is clearly impermissible.

The SABC recommends that clause 9 be deleted.

5.1.10 Public announcements – Ad clause 10

10.1 "Whenever **reasonably and timeously** requested by the national or a provincial commissioner of the South African Police Services to do so in **writing**, the Licensee shall:—

10.3 The Licensee shall, whenever **reasonably and timeously** requested to do so **in writing** by the Authority, broadcast without charge such particulars at such intervals as the Authority may reasonably request **in writing** for the purpose of publishing any applications, enquiries or hearings concerning the Licensee."

5.1.11

5.1.12 Fees – Ad clause 11

The SABC does not believe it is appropriate that its PBS services should be required to pay fees. On this point, we are supported by M-Net¹³.

The SABC submits that with respect to the public broadcasting services, clause 11 should be deleted.

In respect of the commercial services, the clause should be amended as follows:

11. "The Licensee shall be required to comply with the applicable **regulations from time to time promulgated by the Authority which detail the fees payable by the Corporation**"

5.1.13

5.1.14

5.1.15 Information to be furnished to the Authority – Ad clause 12

The SABC submits that the objective of this clause ought to reflect the requisition of information which would enable the Authority to effect its regulatory mandate. This information must necessarily reflect that which the Authority requires for the purposes of exercising its functions assigned to

¹³ M-Net Submission, 14 March 2005

it through the IBA and Broadcasting Acts. Further, the provision of this information should not go beyond that which is necessary for the Authority to have recourse to in the course of discharging its regulatory mandate.

As it stands this provision is too wide. For example clause 12.1.6 would require disclosure of all trade creditors. It is almost impossible to identify who is covered by clause 12.1.2; 12.1.3; 12.1.4 and clause 12.1.5. The condition also overlooks that the sole shareholder of the SABC is the government. Clause 12.4 could include a person against whom the SABC had brought action e.g. a foreign supplier of material who reneged on a contract. This would seem to be absurd.

In addition, the requirement for the physical residential addresses of any person in a position to exercise direct or indirect control of a significant proportion of the licensee's programmes to be provided (and any changes thereto), may result in hundreds of names and addresses being furnished to the Authority by the SABC. The SABC submits that this is unreasonable.

Further, and with regards to the general thrust of the entire provision, the potential conflict presented is that of data integrity and informational solitude in as far as such information relates to an identifiable individual.

The SABC proposes the deletion of clause 12.1 to 12.4, and its replacement with the following:

12.1 The Licensee, upon written request, undertakes to furnish the Authority with the following information, in such a manner and at such reasonable intervals, and to the extent that the retention of such information is necessary, proportionate and consistent with the purposes stipulated in section 21 (3) of the Broadcasting Act 1999:

Operational control and management

- 12.1.1 persons appointed as members to the Licensee's Board pursuant to Part 5 of the Broadcasting Act 1999; and**
- 12.1.2 persons appointed as members to the Licensee's Group Executive Management.**

Declaration of corporate and operational structure

- 12.2 Furthermore, and without derogating from the generality of 12.1, the Licensee undertakes to furnish the Authority with details reflecting the corporate and operational structure of the Licensee's overall configuration in the delineation of positions of authority, and**
 - 12.2.1 the Corporation's memorandum and articles of association and the certification of incorporation;**
 - 12.3 Without prejudice to the generality of clause 12.1, the Licensee shall notify the Authority in writing:**
 - 12.3.1 of any change in the composition of the Licensee's Board;**
 - 12.3.2 of any change in the composition of the Licensee's Group Executive Management, or**
 - 12.3.3 of any material alteration or structural reconfiguration of the corporate and operational structure**
- within 30 days of the occurrence of any such change.**

5.1.15.1Programming – Ad clause 12.5

The SABC submits that the reporting requirement as proposed by the Authority is unduly onerous, noting that, to our knowledge, other licensees are bound only to submit an annual report. We further submit that there ought to a degree of synchronisation with regards to the provision of the above information with that of the provision of financial statements under provision 12.6 and 12.8.

Therefore, the Corporation submits that, in as far as the above provisions relate to the furnishing of information at a particular date, such provisions (provision 12.5 and 12.6) ought to read as follows:

“In each licence year, the licensee shall, within 4 months of the publication of the annual financial statements, submit to the Authority written records indicating:....”

5.1.15.2Financial – Ad clause 12.8

Similarly, the above provision ought to read as follows:

“The Licensee shall provide the Authority with the published annual financial statements of the Licensee within four months of such publication.”

5.1.16

5.1.17 Equal opportunity employment practices and HR development – Ad clause 14

The SABC does not believe it is feasible that each one of its broadcast services should be fully representative of South African society. It is likely, for

instance, that certain of its African language stations will only employ people from that language community. The SABC therefore recommends the amendment of this clause.

The SABC proposes that clause 14 in Schedule A be amended as follows:

The Licensee must ensure that [the licensed service's] **it's** management and staff are representative of South African society and that its human resource policies, particularly with regard to historically disadvantaged persons, take into account the development of managerial production, technical and other skill and expertise."

5.1.18 Complaints – Ad clause 15

The Corporation submits that there ought to be a definition of what constitutes a 'complaint' within the Interpretation provision so as to eliminate the need to report on frivolous audience feedback.

"Complaint shall be construed as being a written representation reflecting an adverse sentiment in respect of broadcast content transmitted by the licensed service, and where such broadcast content serves to substantially derogate from the obligations and conditions specifically relating to broadcast content imposed upon the Licensee through its licence and by the Code of Conduct for Broadcasting Services".

In addition to this, the following amendments should be made to clause 15.

- 15.1 The Licensee's Group Chief Executive or Chief Operations Officer, or any other person designated by him or her and in the Licensee's full-time employ, shall respond to complaints made to it [regarding any aspect of the licensed service] and shall take appropriate steps in respect of **addressing** such complaints.

15.3 The Licensee shall regularly broadcast **within reasonable intervals** on the licensed service information about the manner in **with** which members of the public may lodge complaints. [in respect of any aspect of the licensed service].

5.1.19 Disputes – Ad clause 16

The SABC submits that it is impermissible for the Authority to claim the power to interpret the licence and then to hold the SABC to that interpretation with all its potential consequences. This is contrary to the structure of Chapter VIII of the Independent Broadcasting Act in providing for a neutral body to interpret a licence and determine whether there has been any breach. In the proposed condition the Authority wants to avoid that by issuing rulings as to the meaning of the license and to bind the licensee. This is in breach of the Authority's constitutional obligation to make clear what it is allowing and what it is prohibiting and on what terms.

The Corporation therefore submits that this condition must be deleted in its entirety.

5.1.20 General - Ad clause 17

The SABC submits that clause 17.4 is nonsensical and inappropriate within the context of a regulatory operating licence and recommends that it be deleted.

5.1.21 Notices and Addresses – Ad Clause 18

The SABC recommends the amendment of clause 18.1.3 as follows:

18.1.3 “if transmitted by e-mail, the communication shall be deemed to have been received where an acknowledgement of receipt is communicated through whichever means elected by the recipient”

5.2 SCHEDULE B1

There are a few minor matters in schedule B1 which must be corrected.

5.2.1 Location of studios

Paragraph 2 of the schedule states that “the licensee is licensed to operate from a studio located at Henley Road, Auckland Park, Johannesburg”. The location of the SABC’s studios has not previously been captured in its licences and the SABC does not believe it is appropriate to reflect this matter in licence conditions.

The SABC operates from a number of studios located throughout the country, not only studios located at Auckland Park. This condition would therefore have to be amended to reflect all the location of all the SABC’s studios. The SABC does also not understand how outside broadcasts would be dealt with in terms of this condition.

The SABC submits that the location of its studios is not a material matter and should not be reflected in the licence conditions. The SABC proposes the deletion of paragraph 2 in schedule B1

5.2.2 Reference to Sentech

In paragraph 3 of schedule B1, reference to Sentech, as the Corporation's signal distributor is made. While this is accurate, the SABC does not believe this should be made a condition of licence.

The SABC submits that paragraph 3 is amended as follows:

The signal distribution service is to be conducted by a licensed broadcasting signal distributor [which in this case is Sentech (Pty) Ltd.]

5.2.3 Maps

5.2.4

The paragraph 7 of schedule B1 the Authority states that "the licensed geographical target area is indicated in the map shown on schedule B3".

The SABC does not currently have maps reflecting its geographical target area and wishes to request that such maps are provided to it, prior to the final conditions being published, so they may be checked for accuracy. The SABC has also not been privy to the table of frequency and power assignments for each of the services and requests the opportunity to review these for accuracy, before their final publication.

6 CONCLUSION

Both the SABC and ICASA have spent many months engaged with the section 22 process. As the end of the process beckons, and as agreement on the licence conditions is reached, it is important to reflect on what the consequences of this process should be.

The SABC wishes to complete this process, not only with certainty on its future licence conditions, but also hopes there will be increased understanding on the part of its various stakeholders, including ICASA, for the immense challenges facing it as a public broadcaster.

We hope that we have been able, through our rigorous involvement in this process, to show that the SABC is grappling with the challenges facing it and has a compelling vision of the kind of public broadcasting model it seeks to build. As stated earlier, this evolving model requires that a South African PBS play both transformational and developmental roles, build social cohesion, catalyze change, tell the South African story authentically within the African and global stories, and seek to promote dialogue and discussion among South Africans. The model also requires us to build especially our national marginalised cultures and languages. It requires the public broadcaster to maintain large audience share to achieve national goals and to build social value across society irrespective of ethnicity, race, gender, age, ability and geographic location.

We thank the Authority for the opportunity to participate in this process and we thank also the many stakeholders who have invested their time and energy in making submissions on this important matter.

7 APPENDIX - Comments on submissions made by 3rd parties

PROPOSAL	SABC RESPONSE
e.tv	
1. There should be a prohibition on cross promotion between the PBS and CBS services, unless it is recorded as advertising and, in the case of radio, is provided at full commercial value.	This argument was made previously by etv and was not adopted by the Authority. The SABC believes that there is no legal basis for this view. The SABC is governed by the Broadcasting Act with regard to the arm's length commercial relationship between the PBS and CBS divisions. Regulating cross-promotions through licence conditions as provided by etv would be micro managing the business operations of the SABC.
2. The licences should state that in meeting programming quotas, the licensee shall not repeat programming broadcast on another SABC channel.	This argument was made previously by etv and was not adopted by the Authority. The SABC maintains that such a condition is not necessary. The SABC is governed by the Broadcasting Act with regard to the arm's length commercial relationship between the PBS and CBS divisions.
3. SABC 1 and 2 must operate independently of the programme acquisitions for SABC 3 – programme licences may not extend to SABC 3.	This argument was made previously by etv and was not adopted by the Authority. The SABC has developed internal pricing systems to deal with programme acquisitions to ensure an arms length commercial relationship between the two divisions. In addition to this, programme licence agreements are entered into on behalf of the SABC as whole and not specific channels. This is for optimal use and efficiency of the Corporation's resources.
4. There should be a prohibition on the joint selling of advertising across channels.	This argument was made previously by etv and was not adopted by the Authority. The SABC maintains that such a condition is not necessary and would constitute undue interference in the business operations of the Corporation. The SABC is governed by the Broadcasting Act with regard to the arm's length commercial relationship between the PBS and CBS divisions.
5. Prime time language obligations should be inserted in the SABC TV licence conditions.	The SABC has proposed its language obligations are set during prime time, when audiences are most available. Please refer to the SABC's full written response for further information on this.
6. SABC 3 should have similar language obligations as Etv.	The SABC has proposed language obligations for SABC 3. Please refer to the SABC's full written response for further information on this.
7. SABC 1 and SABC 2's advertising should be limited to 6 minutes / hour.	This argument was made previously by etv and was not adopted by the Authority. The SABC requires advertising funding to fulfil its extensive mandate and any further limitation on advertising will impact on the SABC's mandate performance. This was demonstrated in the original application and during the hearings.
8. SABC 1 and SABC 2 should have greater programming obligations than etv while SABC 3 should have the same as etv.	The SABC has proposed licence conditions which it believes are appropriate for both its commercial and PBS services. Please refer to the SABC's full written response for further information on this.

PROPOSAL	SABC RESPONSE
9. SABC should have obligations on employment equity and training, at a level no less than etv's.	e.tv's licence conditions in this regard were proposed by e.tv itself while competing for the licence and are not relevant to the SABC. The SABC has developed extensive policies and systems dealing with these matters, which extend beyond its licensed services to the SABC as a whole. The SABC believes that no further licence conditions on these matters are required.
TD STRACHAN	
10. One third of SAfm's daily broadcasts should be dedicated to the cultural interests of the English speaking community.	This clause is irrelevant as SAfm has as its target audience all English speaking and understanding South Africans. The SABC has proposed licence conditions which it believes are appropriate for this service. Please refer to the SABC's full written response for further information on this.
FXI	
11. The licence conditions should emphasise the equitable treatment of religions	The SABC believes ICASA's proposed condition is sufficient. The SABC's editorial policies deal in detail with the equitable treatment of religions.
12. The licence conditions should state that all content should reflect a South African and African bias.	In light of the extensive regulations on local content, licence conditions on language and the SABC's own editorial policies, we believe such a condition is unnecessary. It is also not possible for all content to reflect such a bias, as there will still be some foreign content on the broadcaster, albeit a minimum.
13. The licence conditions should require documentaries to reflect international, national, regional and local themes, challenge perceived wisdoms and expose viewers to different viewpoints.	The SABC believes such a condition is unnecessary. The SABC would necessarily attempt to reflect such themes in order to appeal to viewers.
KAGISO MEDIA	

PROPOSAL	SABC RESPONSE
14. The language of broadcast should be specifically defined.	The SABC has proposed licence conditions which it believes are appropriate to deal with language and does not believe further specificity is required in relation to language usage on radio as all official languages are broadcast on SABC Radio.
MMP	
15. Measurement of compliance should be based on a weekly or daily average of 12 months.	The SABC has proposed that all measurement periods are standardised as a weekly average over the period of a year. Please refer to the SABC's full written response for further information on this.
16. Radio 2000 should have full spectrum licence conditions i.e. across genres.	In the SABC's view it would not be appropriate for Radio 2000, as a facility service, to have "full spectrum licence conditions". The nature of a facility service is that it has a flexible format to accommodate events of national importance and sporting events. The SABC has proposed licence conditions which it believes are appropriate for a facility service. Please refer to the SABC's full written response for further information on this.
17. The licence conditions should be standardised with regards to all SABC stations adherence to religious diversity	The SABC believes that the condition is unnecessary. The SABC has developed editorial policies which clarify how religions should be treated by its broadcasting services.
18. SABC Radio like Television should also provide records of its performance on the use of all official languages.	The SABC does not believe such a condition is necessary. The radio services each have a main language to broadcast in and therefore there is no need to provide an account of languages broadcast. Should ICASA want to assess language use in this regard, it can be provided with on-air recordings as provided for in the Act.
19. There should be a clause in the commercial radio licences stating that quarterly records of SA music should be provided.	ICASA has the prerogative of requiring any information when it is necessary to do so in the performance of its duties. There is therefore no need to have a licence condition in this regard.
20. The submission of quarterly reports may be too excessive, these should rather be made on a six monthly basis.	The SABC has proposed that the submission of all reports be made on an annual basis. Please refer to the SABC's full written response for further information on this.
21. Advertising limits should also be placed on radio services.	The SABC supports the position taken by ICASA not to set advertising limits for radio as this is consistent with the approach taken for other radio services. The SABC requires advertising funding to fulfil its extensive mandate. This was demonstrated in the original application and during the hearings.

PROPOSAL	SABC RESPONSE
22. Licence conditions requiring the SABC to have policies on HIV/AIDS and gender should be inserted.	The SABC already has such policies which bind the whole organisation, not just the licensed services. The inclusion of such a licence condition is therefore not necessary.
23. Local Content quotas that apply to SABC commercial services should be greater than these of standard free-to-air services such as E.TV.	The SABC disagrees with this proposal and in any event believes that this is a matter for the regulations on local content.
24. MMP recommends a licence condition that would require all journalists in the employ of the SABC to adhere to the editorial policies as well as to the existing codes of conduct.	The SABC has ensured that its staff and journalists are familiar with the editorial policies and code of conduct. Therefore there is no need to have a separate licence condition for this.
25. Licence conditions should specify the amount of repeats which may count towards local content.	The SABC disagrees with this proposal as repeats are already dealt with in the local content regulations.
26. All SABC radio stations should be required to provide a wide range of programming, in the official languages, in line with section 6(4) of the Broadcasting Act.	The SABC disagrees with this proposal as it would bind its radio stations, which broadcast in a single official language, to provide programming in "the official languages".
27. SAFM should have 2 hours News, because it brand itself a "South Africa's News and Information Leader."	The SABC is in agreement with the number of hours per week proposed by the Authority for news and current affairs on its radio stations (although we propose that these are made weekly rather than daily requirements). The SABC does not support any increase in news as this would have an impact on other genres and on costs. This is especially true for XKFM where the Authority is aware of the constraints of producing news in languages which are not written. Please refer to the SABC's full written response for further information on our proposals on news and current affairs on radio.
28. CKI FM, XK FM and Radio 2000 should have increased quantity of Current Affairs.	
29. XK FM should have 1 hour News per day.	
30. News should include the broadcast of children's news across all SABC's stations.	The SABC submits that children's information requirements would be addressed in the course of its children's programming which will be broadcast on every station.

PROPOSAL	SABC RESPONSE
31. Extend clause 2.2.3.4 from proposed licence conditions on television to radio.	The SABC has no objection to the existing clause 2.2.3.4 in the television licence conditions also being extended to radio.
32. Educational programming on SAFM, Lotus FM, CKI FM, and Radio 2000 should have same hours (5hrs) as other public service radio stations Public Commercial radio should be required to broadcast 2.5 hours of educational programming per week.	The unique status of the radio stations in question were fully canvassed at the hearing. In light of this, the SABC believes the ICASA proposals are sound. As for the proposal that the commercial radio stations broadcast educational programming, this would not be compatible with their commercial music formats. In addition to this, other commercial music radio stations do not have this obligation.
33.SABC 3 should be required to broadcast 4 hours of educational programming per week	The Authority has not set educational programming as a requirement for commercial television. Instead, the Authority has prioritised children's programming, which SABC 3 will be complying with.
34.Proposes removal of hourly rate on drama and replace the existing clause 2.4.1 with the following: "the licensee shall, in the provision of the licensed service, ensure that within its wide range of drama programming, and in line with the local Content Regulations, broadcast a minimum of 35% local drama within the South African television performance period. A minimum of 20% of all drama programming shall be broadcast during prime time." Further proposes that after 36 months all public radio service stations should have drama programming of 60 minutes per day each week.	The SABC is in agreement with the Authority's proposals for drama for both television and radio and does not believe they require amendment.

PROPOSAL	SABC RESPONSE
35. CKI FM and Radio 2000 should have Informal Knowledge Building (IKB) programming increased to a minimum of 3 hours in order to place the stations on par with other SABC public service radio stations. SAFM's IKB be reduced to a minimum of 4 hours per week and SABC 3's IKB remain at a minimum of 12 hours per week.	Aside from some amendments required to the Radio 2000 licence, the SABC is in broad agreement with the Authority's proposals for the licence conditions for these stations and does not believe they require amendment.
36. A minimum of 33% of all IKB programming should be devoted to arts and arts programming	The SABC does not believe this is a workable suggestion. The SABC is bound by the Broadcasting Act to provide coverage of the Arts and does so in a variety of programme genres, not only IKB.
37. All PBS radio including Radio 2000, should have a minimum of 2 hours per week of documentary programming within 24 months from the date at which the licence becomes effective.	The SABC is in agreement with the genres proposed by the Authority for radio and does not believe it would be feasible to introduce such a high quota for a specialised genre such as documentary.

PROPOSAL	SABC RESPONSE
<p>38. A minimum standard of one hour per day of children's programming across all PBS radio within 18 months.</p> <p>For Radio 2000, a minimum of 2 hours and it should cover 44% of the population</p> <p>SABC 1 and 2 should each have more than 16 hours of children's programming per week required of e.tv. 6 hours per week n SABC 1 and 2 should be aimed at children aged between 13 and 18. SABC 3 should carry an additional 4 hours of programming aimed at children aged 13 and 18.</p> <p>Clause 2.7.2.3 of TV licence be amended to reflect that 60% of children's programming is devoted to educational, news, and current affairs programming important for children</p> <p>Addition of clause 2.7.2.4: "Developed , designed and produced in a manner that ensures that all elements of such programming enable the meaningful participation of children."</p>	<p>The SABC has made proposals on the level of children's programming for television and radio and the manner in which this should be measured. In certain instances, our proposals exceed that proposed by ICASA. Please refer to our full written response for further information.</p>
<p>39. Broadcast time of children's programming should consider maturity and needs across all age groups.</p>	<p>The SABC submits that the licence condition proposed by the Authority already deals with this matter.</p>

PROPOSAL	SABC RESPONSE
40. Full editorial control should lie with the news editor at every station, with matters only being referred to the Head of News at the SABC if and when problems arise.	The SABC submits that this is not a matter for licence conditions and is dealt with in the SABC's internal policies.
41. Remove the wording "predominantly" on language clauses and put specific percentage.	Please refer to point 14 above.
42. Licence conditions similar to CBC Code that restricts advertising to not more than 4 minutes in any one half hour of children's programming or more than average of 8 minutes per hour in children's programmes of longer duration should be introduced.	<p>The SABC requires advertising, including advertising generated during children's programmes, to fund its extensive mandate. This was demonstrated in the original application and during the hearings. Any restriction on advertising during children's programmes will impact on the revenue available to the SABC and therefore on the amount of children's programmes which can be broadcast.</p> <p>The existing advertising codes deal adequately with advertising directed at children. This is not a matter for licence conditions.</p>
43. There should be limits on repeat advertising broadcast during children's programmes or at times when large numbers of children are watching and also licence conditions regulating the encouragement of children to purchase particular products.	
44. The 80% level stipulated should be set as a long term goal to be achieved over a practical time period, to be decided on by the Authority and the SABC	The SABC agrees that there should be an "incremental approach" to increasing language delivery on television over the duration of the licence period. The SABC had made proposals on this in its full written submission.
MISA	

PROPOSAL	SABC RESPONSE
45. Concern over lack of specific quantity on SABC 3's language obligation. The proposed condition states "predominantly" in English, while E TV'S licence specifies other languages.	Please refer to point 6 above.
46. Licence conditions should further address gender equity in employment and integration.	The SABC believes this is already addressed by certain of the Authority's proposed licence conditions under "Employment equity" and "General Requirements".
NFVF	

PROPOSAL	SABC RESPONSE
<p>47. A clause should be inserted requiring the SABC to specify details such as the source of programming material and compliance with regulations on geographical spread and diversity of programmes genres. This should include details of the production company's names and geographical location.</p> <p>The licensee should also be required to provide details regarding the ownership, control and management structures of the production companies.</p>	<p>The SABC does not believe it is necessary to set this requirement in licence conditions as ICASA has the prerogative to request any additional information which it may require. The stipulations listed in the proposed ICASA licence condition are clearly not envisaged to be exhaustive.</p> <p>Provision of information on the ownership, control and management structures of production companies should be provided by the production companies and should not be made the obligation of the SABC.</p> <p>The SABC has no objection to these proposals although we have proposed the redrafting of clause 14 in our full written submission. Please refer to the SABC's full written response for further information on this.</p>
48. Additional to clause 14, the SABC should implement legislation regarding Broad Based Black Economic Empowerment (BBBEE).	
49. There should be a new clause 14.3 that state: "The licensee shall ensure that adequate training and skills development programmes are provided for the staff of the licensed service in line with the Skills Development Act and other related legislation.	
50. There should be a clause on BBBEE, stating that the license shall endeavour to achieve the aims of national legislation relating to Broad Based Black Economic Empowerment (BBBEE) in its procurement practices and in its policies relating to enterprise development and commissioning procedures.	

PROPOSAL	SABC RESPONSE
51. For SABC1 and SABC 2, there should be a stipulation that 40% of programming in the genres of education, drama, IKB, documentary and children's programming should be commissioned from the Independent Production Sector.	The SABC does not believe this is a matter for licence conditions. The SABC is bound by the regulations on local television content which set the 40% quota for independent production. This quota applies to all programming collectively and does not necessarily have to be met in each genre.
52. There should be a condition stating that the licensee should endeavour to provide opportunities for a wide range of suppliers of programme material in its commissioning and procurement of programmes.	The SABC has no objection to this sentiment but believes this is a matter for its internal policies and not its licence conditions.
53. The 80% language proposal for TV should be staggered.	The SABC is in agreement with this view. In its full written submission, the SABC has made alternative proposals on language which we believe are achievable.
PRIMEDIA	
54. The Authority must not be overly prescriptive and involve inflexible licence conditions that do not accord with exigencies of a broadcasting service.	The SABC is in agreement with this view. In its full written submission, the SABC has made alternative proposals on licence conditions which we believe are achievable.
M-NET	
55. Obligations for S1 and S2 ought to be greater than those for S3 and e.tv. Obligations regarding News, Current Affairs and Children programming on E.TV are greater than those imposed on SABC 1 and 2 while the opposite should prevail.	Please refer to point 8 above.

PROPOSAL	SABC RESPONSE
56. SABC 3 ought to have similar licence conditions as e.tv.	Please refer to point 8 above.
57. SABC 1 and 2 ought to have more limitations on advertising than S3 and e.tv.	Please refer to point 7 above.
58. Licence fees should be imposed on SABC 3 and should be similar to those of e.tv. There should be no fees for the PBS services.	The SABC is in agreement with the proposal that there should be no fees set for the PBS services. The SABC would wish to engage with the Authority on the exact fees which are to be set for its commercial services, during the consultation process on the relevant regulations.
59. SABC 3 should be forbidden from being funded from any grants received from the state and from licence fees levied.	In line with the Broadcasting Act, the SABC has systems in place to ensure that no public monies are used to cross-subsidise its commercial services.
YFM	
60. The Authority has not imposed any substantive licence conditions on the commercial radio stations of the SABC.	The SABC disagrees with this view. The licence conditions proposed by ICASA are broadly in line with the conditions set for commercial radio, save for specific promises of performance which some commercial radio stations made during their competitive licensing processes.
61. There should be local content quotas on the public commercial sound broadcasters of the SABC that is at least commensurate with that of public service broadcasters (namely 40%) and ideally at a level that is commensurate with those of Y-FM (namely 50%)."	The SABC is bound by the local content regulations set by ICASA. It should also be noted that the 50% local content for Y-FM was a commitment by Y-FM when competing for the licence and therefore has no relevance to SABC's commercial stations.
T.MBETSHU	

PROPOSAL	SABC RESPONSE
62. Needs compensation and apology in respect of Umhlobo Wenene. Further, needs a commercial licence.	Matters raised are not relevant to this process.
SENTECH	
63. The obligation to ensure that harmful interference does not occur rests with the licensed broadcasting signal distributor.	The SABC is in agreement with this view.
64. The licensee in terms of clause B1 (4) of the proposed licence, should not operate studio-to-transmitter links (STL). STL's only carry broadcasting content in its final content format as the link is directly connected to the transmitter.	The SABC agrees that the term STL (Studio Transmitter Link) refers to the distribution of the broadcasting content in its final form, and hence forms part of the signal distribution service provided by a licensed signal distributor. It must however, be mentioned that broadcasters are licensed by the Authority and make use of similar link equipment as part of a normal contribution from a remote point back to the studio. This content would then be edited in the studio and will eventually form part of the final content that will go to air.
GUY BERGER	
65. CKI format of "Urban contemporary" music station does not suit a station that has to provide a public service.	The station provides other programming genres relevant for a public broadcasting service.
66. The format of CKI is similar to that of Metro FM and therefore a duplication	Though the formats may be similar, CKI is a PBS station, broadcasting in a number of other genres aside from music and providing PBS programming which Metro FM does not.
67. CKI should be given a temporary licence pending its privatisation or conversion to a kind of community station.	There is no legal basis for the proposition. The SABC has done all that is required to operate CKI as a public broadcasting service and continues to reposition the station as such.
68. Only SABC's commercial wing should compete with the private sector for advertising.	The Broadcasting Act provides that the public broadcasting services can source revenue from commercial as well as public sources. The SABC requires advertising funding to fulfil its extensive mandate. This was demonstrated in the original application and during the hearings. Please refer to the SABC's full written response for further information on this.

PROPOSAL	SABC RESPONSE
69. 80% language requirement too onerous for SABC to fund on its current business model.	The SABC is in agreement with this view. Please refer to the SABC's full written response for further information on this.
70. Revisit local content quotas, that SABC 3 should at least have the same quota as Etv.	Please refer to point 8 above.
71. Limits should be set for advertising on SABC Radio services.	Please refer to point 21 above.
72. Commercial stations of the SABC should be given responsibility on educational programming.	Please refer to point 32 above.
73. Licence conditions to clarify whether ICASA accepts SABC's proposed internal transfer pricing mechanism and what kind of standard should apply.	This matter was canvassed fully in the hearings. The SABC does not believe this is a matter to be dealt with in the licence conditions.
TABEMA & I-MAG	
74. Proposes technological means for facilitating multilingual broadcasting e.g. subtitles, simulcast, transmitter separation and voice overs	Although this is not suggested by the representor as a licence condition, the SABC appreciates the input
TRUDIE BLANKENBERG	
75. The word "predominant" should be removed from the licence condition prescribing the use of Afrikaans as the language for RSG. Concerned that that the word "predominant" might allow more English on the station.	The SABC does not believe this requires amendment. Please also refer to point 14 above.

PROPOSAL	SABC RESPONSE
76. Suggests advertising on radio should be limited.	Please refer to point 21 above.
JANE AND DAVID ROSENTHAL	
77. Appreciates the reintroduction of two and half hours of drama per week on radio and that it should include the reading and dramatisation of novels.	It is not clear which radio service is the comment related to. However, the SABC has addressed the proposed licence conditions for radio drama in its full submission.