

**ADDITIONAL WRITTEN REPRESENTATIONS BY THE CIVIL SOCIETY COALITION: SAVE
OUR SABC – RECLAIMING OUR PUBLIC BROADCASTER, ON THE ELECTRONIC
COMMUNICATIONS ACT: DRAFT BROADCASTING DIGITAL MIGRATION FRAMEWORK
REGULATIONS**

1. INTRODUCTION

- 1.1. The Independent Communications Authority of South Africa (ICASA) has in terms of the Electronic Communications Act (36/2005) published Draft Broadcasting Digital Migration Framework Regulations (“the Regulations”). Regulations were published in Government Gazette, 3 October, Notice 1240 of 2008 with a deadline for comment of Friday 7 November 2008. Oral hearings were held on 1 December 2008. At the oral hearings ICASA gave all interested parties the opportunity to submit additional comments by 23 January 2009.
- 1.2. We, the Civil Society Coalition: **Save our SABC – Reclaiming Our Public Broadcaster** (“the Coalition”), thank ICASA for the opportunity to make these additional written representations.
- 1.3. In particular ICASA asked us to furnish further information as regards our views on the “public value test” and our complaint as regards the allocation of a second public commercial channel to the SABC.

2. PUBLIC VALUE TEST

- 2.1. As stated in the Regulations authorisation of channels for public broadcasting will be subjected to a public value test. The public value test will include the following factors: the level of educational programming, the distribution of different languages with an emphasis on marginalised languages; the promotion of cultural diversity; programming aimed at persons with disabilities, children, youth and women; the social development of persons in the Republic including programmes providing entertainment and information and multi-genre programming. The Regulations also stated that authorisation of channels may be subjected to a public process.
- 2.2. The Coalition reiterates its support for the “public value test”. However, we believe that the details of the test need to be further clarified.

- 2.3. First, we believe that the principles included in the test as it stands assume that each channel will cover all the requirements listed. In a multi-channel environment however the bouquet of PBS channels need to cover these principles rather than each individual channel. The public value test needs to reflect this understanding. We propose, in line with the SABC's own submission, that the public value test be applied to the bouquet of PBS channels as a whole rather than to each PBS channel.
- 2.4. Second, we believe that the "public value test" needs to be further clarified to reflect "public value" at three different levels. These include value for money, value to the individual citizen and value to society. In terms of "value for money" the SABC needs to cost its offerings as regards each of its proposed channels and demonstrate how it will be able to sustainably provide these. In terms of "value to the individual citizen" the SABC needs to outline its proposed offerings and how each channel will enhance diversity of content and language across its bouquet of public channels but also how its bouquet of proposed channels will ensure greater diversity of content within the broadcasting environment as a whole. Further, the SABC needs to demonstrate that audiences will actually be interested in watching the programmes it proposes. In this regard the SABC needs to provide audience research. Finally, in terms of "value to society" the SABC needs to demonstrate that its offerings, across its bouquet of channels, will contribute to the deepening of democracy in South Africa and the fulfilment of its goals outlined in its Charter.
- 2.5. Third, we believe that ICASA needs to be very specific about what documentation the public broadcaster needs to provide as regards the fulfilment of the requirements of this "public value test"
- 2.6. Fourthly, we want to reiterate the position we put forward in our previous submission that public participation must be included as an essential component of the channel authorisation process. Public participation must be conducted in accordance with the Promotion of Administrative Justice Act which would, at the very least, require a public notice and comment procedure.

3. PUBLIC COMMERCIAL CHANNELS

- 3.1. The SOS Coalition argued in its previous written and oral representations that the SABC's funding model needs to be reviewed. The Coalition stated that the Corporation's present

3.2. To review this model the Coalition is campaigning for the launch of a consultative Green Paper / White Paper process leading to the promulgation of a new SABC Act. The Coalition however realises that this may be a lengthy process and ICASA needs to take a decision on channel allocation within the near future. The Coalition suggests that the SABC is not given a further public commercial channel but instead a further public channel.

4. **CONCLUSION**

4.1 The Coalition thanks ICASA for the opportunity to make these further written representations and trusts that its concerns will be addressed.

4.2 Please do not hesitate to contact Ms Kate Skinner, the Coalition's Campaign Coordinator, (contact details provided below) should ICASA have any queries or require any further information with regard to this submission.

Cell: 082.926.6404.

Email: kate.skinner@mweb.co.za