

INDEPENDENT BROADCASTING AUTHORITY ACT 153 OF 1993

(English text signed by the State President)

[Assented To: 18 October 1993]

[Commencement Date: 30 March 1994 – unless otherwise indicated]

as amended by:

Proclamation No. 55 of 1994
Independent Broadcasting Authority Amendment Act 36 of 1995
Independent Broadcasting Authority Amendment Act 4 of 1996
Telecommunications Act 103 of 1996
Broadcasting Act 4 of 1999
Independent Communications Authority of South Africa Act 13 of 2000
Broadcasting Amendment Act 64 of 2002

NOTE:

This Act has been amended by s. 41 of the Broadcasting Act 4/99 as follows: “unless the context otherwise indicates, “broadcasting”, “broadcasting signal distribution”, “broadcasting service”, “encryption”, “private broadcasting service”, “public broadcasting service”, “community”, “broadcasting services frequency bands”, have the meaning assigned thereto in section 1 of the Broadcasting Act of 1998.”.

ACT

To provide for the regulation of broadcasting activities in the public interest; for that purpose to establish a juristic person to be known as the Independent Broadcasting Authority which shall function wholly independently of State, governmental and party political influences and free from political or other bias or interference; to provide for the representation of that Authority by and its functioning through a council, and to define the powers, functions and duties of that Authority; to provide for the devolution of powers relating to the administration, management, planning and use of the broadcasting services frequency bands to the said Authority; and to provide for incidental matters.

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CHAPTER I

INTRODUCTORY PROVISIONS

1. Definitions

(1) In this Act, unless inconsistent with the context -

“apparatus” means any apparatus or equipment used or destined, designed or adapted to be used in connection with broadcasting;

“appointing body” means the body charged with the appointment of councillors in terms of section 4;

“Authority” means the Independent Communications Authority of South Africa established by [section 3](#) of the Independent Communications Authority of South Africa Act, 2000;

[Definition of “Authority” substituted by s. 23 of Act 13/2000]

“authorized person”, in relation to any power, function or duty to be exercised or performed for or on behalf of the Authority in terms of this Act, means any councillor or member of a committee of the Council or any staff member of the Authority duly authorized by the Council in terms of this Act to act for or on behalf of the Authority;

“broadcasting” means any form of unidirectional telecommunication intended for the public or sections of the public or subscribers to any broadcasting service having appropriate receiving facilities, whether carried out by means of radio or any other means of telecommunication or any combination of the aforementioned, and “broadcast” shall be construed accordingly;

“broadcasting licence” means a licence granted and issued by the Authority in terms of this Act to a person for the purpose of providing a defined category of broadcasting service, or deemed by this Act to have been so granted and issued;

“broadcasting licensee” means the holder of a broadcasting licence;

“broadcasting service” means a single, defined service which consists in the broadcasting of television or sound material to the public or sections of the public or to the subscribers to such service;

“broadcasting services frequency bands” means that part of the electromagnetic radio frequency spectrum which is assigned for the use of broadcasting services by the International Telecommunications Union (ITU), in so far as such assignment has been agreed to or adopted by the Republic, as well as any other additional part of the electromagnetic radio frequency spectrum determined in terms of [section 29](#) (3A) for the use of broadcasting services, but excluding any of the broadcasting services frequency bands which have been made available for use by telecommunications users as contemplated in [section 29](#) (4);

[Definition of “broadcasting services frequency bands” substituted by s. 127 of Act 103/96]

“broadcasting signal distribution” means the process whereby the output signal of a broadcasting service is taken from the point of origin, being the point where

such signal is made available in its final content format, from where it is conveyed to any geographical broadcast target area by means of a telecommunications process, but excluding the use of facilities which operate on frequencies outside the broadcasting services frequency bands;

“broadcasting signal distribution licence” means a licence granted and issued by the Authority in terms of this Act to a person for the purpose of providing signal distribution for broadcasting purposes, or deemed by this Act to have been so granted and issued;

“broadcasting signal distribution licensee” means the holder of a broadcasting signal distribution licence;

“chairperson” means the chairperson appointed under [section 5](#) (2) of the Independent Communications Authority of South Africa Act, 2000;
[Definition of “chairperson” substituted by s. 23 of Act 13/2000]

“community” includes a geographically founded community or any group of persons or sector of the public having a speci

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DECIDED CASES

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[1999] 1 All SA 96

Section 2

1997 (3) SA 103;
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[1997] 1 All SA 682;
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[2002] 1 All SA 469

Section 2(r)

[2002] 1 All SA 469

Section 3

[2002] 1 All SA 469

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1997 (3) SA 103
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Section 3(3)

1997 (3) SA 103;
[1997] 1 All SA 682

Section 4

1997 (3) SA 103;
[1997] 1 All SA 682

Section 4(1)

1997 (3) SA 103;
1999 (3) SA 897;
[1997] 1 All SA 682;

[1999] 1 All SA 96

Section 4(2)

1997 (3) SA 103;
[1997] 1 All SA 682

Section 4(3)

1997 (3) SA 103;
[1997] 1 All SA 682

Section 10(4)

1997 (3) SA 103;
[1997] 1 All SA 682

Section 24(3)(a)

[2002] 1 All SA 469

Section 26(1)

[2002] 1 All SA 156

Section 28A

1997 (3) SA 103;
[1997] 1 All SA 682

Section 41

[2002] 1 All SA 469

Section 41(5)

[2002] 1 All SA 469

Section 41(6)

[2002] 1 All SA 469

Section 41(7)

[2002] 1 All SA 469

Section 41(8)

[2002] 1 All SA 469

Section 41(10)

[2002] 1 All SA 469

Section 42

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[1997] 1 All SA 682;
[2002] 1 All SA 469

Section 42(3)

[2002] 1 All SA 469

Section 42(3)(a)

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Section 46

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Section 46(1)

2003 (5) SA 451

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Section 47A(2)

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Section 47A(3)

2003 (5) SA 451

Section 47B

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Section 48

1997 (3) SA 103;
[1997] 1 All SA 682

Section 49

1997 (3) SA 103;
[1997] 1 All SA 682

Section 50

1997 (3) SA 103;
[1997] 1 All SA 682

Section 51

1997 (3) SA 103;
[1997] 1 All SA 682

Schedule 1 Clause 2(a)

2002 (4) SA 294

INDEPENDENT BROADCASTING AUTHORITY ACT 153 OF 1993

INDEPENDENT BROADCASTING AUTHORITY (TEMPORARY COMMUNITY BROADCASTING LICENCES) REGULATIONS, 1994

REGULATIONS RELATING TO PROCEDURES CONCERNING APPLICATIONS FOR, THE GRANTING OF AND OTHER MATTERS RELEVANT TO TEMPORARY COMMUNITY BROADCASTING LICENCES

Published under Government Notice R1675 in *Government Gazette* 15999 of 30 September 1994 and amended by:

GN R1809	GG 16823	17/11/95
GN R1413	GG 17393	23/8/96
GN R1916	GG 17624	15/11/96
GN R485	GG 23332	16/4/2002
GN 691	GG 26420	1/6/2004

Note:

The Regulations have been withdrawn in Gauteng by GN 691/2004.

The Independent Broadcasting Authority has, under [section 47A](#) (3) of the Independent Broadcasting Authority Act, 1993 (Act No. 153 of 1993), made the regulations in the Schedule.

1. [Definitions](#)
2. [Notice inviting applications](#)
3. [Application fee](#)
4. [Applications](#)
5. [Representations by interested persons](#)
6. [Hearing](#)
7. [.....](#)
8. [Considerations and criteria to be taken into account](#)
9. [Decision on application](#)
10. [Licence fee](#)
11. [Conditions](#)
12. [Term of temporary licences](#)
13. [Record of programmes broadcast](#)
14. [Records, public inspection and copies](#)
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[SCHEDULE 1 - Form of application for a temporary community broadcasting licence](#)

[SCHEDULE 2 - Licence areas in respect of which applications for temporary fm licences shall not be considered](#)

SCHEDULE

1. Definitions

In these regulations, unless the context otherwise indicates -

- (i) **“special event licence”** means a temporary licence with a term of validity not exceeding 30 days, and may be in respect of either a sound or a television service;
[Definition of “short-term licence” substituted by GN R485/2002]
- (ii) **“temporary licence”** means a temporary community broadcasting licence contemplated in [section 47A](#) of the Act;
- (iii) **“the Act”** means the Independent Broadcasting Authority Act, 1993 (Act No. 153 of 1993),

and any word or expression to which a meaning has been assigned in the Act shall bear such meaning.

2. Notice inviting applications

- (1) The Authority may, when it intends inviting applications for a temporary licence, cause a notice to that effect to be published in the Gazette.
- (2) Such notice shall state -
 - (a) the licence area;
 - (b) the applicable technical parameters, which may include the frequency or frequencies available;
 - (c) the person with whom an application shall be lodged;
 - (d) the period within which the application shall be lodged;
 - (e) the application fee payable in terms of regulation 3;
 - (f) the licence fee payable in terms of regulation 10 if the application is successful.

3. Application fee

Every application for a temporary licence shall be accompanied by an application fee of R500 paid by means of a cheque in favour of the Authority. The Authority may, at its discretion, where an applicant is the current holder of a temporary community sound broadcasting licence, levy an application fee of R250.

[Reg. 3 amended by GN R1916/96]

4. Applications

- (1) An application for a temporary licence may be made -
 - (a) pursuant to a notice contemplated in regulation 2; or
 - (b) by the applicant at his or her own instance, and irrespective of whether any such notice has been published.
- (1A) An application shall not be considered by the Authority -

(a) for an FM sound broadcasting service in respect of a licence area which

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NOTICE OF REGULATIONS RELATING TO APPLICATIONS FOR SPECIAL EVENT LICENSES FOR COMMUNITY BROADCASTING SERVICES

Published under Government Notice R485 in *Government Gazette* 2332 of 16 April 2002.

The Independent Communications Authority of South Africa (the Authority) hereby gives notice, in accordance with the provisions of [section 47A](#)(3) read with [sections 28](#) and [13](#) of the Independent Broadcasting Authority Act, No. 153 of 1993 (the Act) as amended, that it makes the regulations attached hereto.

These regulations would be effective from 2 May 2002.

REGULATIONS RELATING TO APPLICATIONS FOR SPECIAL EVENT LICENSES FOR COMMUNITY BROADCASTING SERVICES

The Independent Communications Authority of South Africa hereby makes the following regulations in accordance with the provisions of [sections 47A](#) (3) and [28](#) read with [section 13](#) of the Independent Broadcasting Authority Act, 153 of 1993 as amended.

These regulations amend and/or repeal certain sections of the “[Independent Broadcasting Authority \(Temporary Community Broadcasting Licences\) Regulations, 1994](#)” published in Government Gazette no. 15999 Regulation no. R.1675 of 30 September 1994 and the “[Independent Broadcasting Authority \(Temporary Community Licences: Criteria to measure community support\) Regulations](#)”, published in Government Gazette no. 15999 Regulation no. R.1674 of 30 September 1994.

- [1. Definitions](#)
- [2. Application fee](#)
- [3. Applications](#)
- [4. Applicants](#)
- [5. Programming](#)
- [6. Support](#)

[SCHEDULE 1 - SCHEDULE OF AMENDED/REPEALED SECTIONS OF THE REGULATIONS AND THE EXTENT OF THE AMENDMENT OR REPEAL](#)

[SCHEDULE 2 - APPLICATION FORM FOR SPECIAL EVENT LICENSES](#)

[SCHEDULE 3 - APPLICATION FORM FOR A BROADCASTING SIGNAL DISTRIBUTION LICENCE IN RESPECT OF A SPECIAL EVENT LICENCE](#)

[SCHEDULE 4 - CHECKLIST FOR SPECIAL EVENT LICENSES](#)

1. Definitions

- 1.1 “The Act” means the Independent Broadcasting Authority Act, no.153 of 1993, as amended;
- 1.2 “The Authority” means the independent Communications Authority of South Africa, established in terms of [section 3](#) of the Independent Communications Authority of South Africa Act, no. 13 of 2000;
- 1.3 “commencement date” means the date on which an applicant proposes to commence its broadcasting activities;
- 1.4 “Special event” means an event of a cultural, religious, political, sporting or similar nature taking place within the applicant's community, which must take place irrespective of whether a licence has been granted or refused;
- 1.5 “Special event licence” means a temporary licence with a term of validity not exceeding 30 days, and may be in respect of either a sound or a television service.

2. Application fee

Every application for a special event licence shall be accompanied by an application fee of R500,00 paid by means of a cheque in favour of the Authority.

3. Applications

- 3.1 Every application for a special event licence shall -
 - 3.1.1 be substantially in the form contained in schedule 2 below;
 - 3.1.2 be accompanied by other documents required in the application form;
 - 3.1.3 be accompanied by a fully completed checklist contained in schedule 4 below;
 - 3.1.4 be submitted to the Authority not later than 60 days and not earlier than 90 days before the proposed commencement date;
 - 3.1.5 be legibly completed in any official language;
 - 3.1.6 be accompanied by 12 copies of the application form and all relevant documents, including any documents that may be requested by the Authority in the course of assessing the application;
- 3.2 The Authority has discretion -
 - 3.2.1 on whether to publish material particulars of special event licences;
 - 3.2.2 on whether to hold hearings in respect of applications for Special Event Licences.

4. Applicants

- 4.1 An applicant for a special event licence must -
- 4.1.1 be a legal entity;
 - 4.1.2 be non-profit;
 - 4.1.3 be controlled by an Executive Body/Committee which must be democratically elected from members of the community to be served by the proposed broadcast service.

5. Programming

- 5.1 The programming -
- 5.1.1 must comply with the provisions stated in [section 32\(4\)](#) of the Broadcasting Act, no. 4 of 1999;
 - 5.1.2 must be 60% or more related to the special event;

6. Support

In respect of special event licences, an applicant may provide support for the proposed broadcasting service by providing at least one of the four categories of documents mentioned in sub-regulation 3 of the Regulations on the Criteria to measure community support, or results of a survey as contemplated in sub-regulation 4 of the said Regulations.

SCHEDULE 1

SCHEDULE OF AMENDED/REPEALED SECTIONS OF THE REGULATIONS AND THE EXTENT OF THE AMENDMENT OR REPEAL

Title of Regulation	Section number	Extent of amendment /repeal
Temporary Community Broadcasting Licences	1	Replaced definition of short-term licence with a definition of special event licence
“	7	Repealed in whole
“	8(1)(iii)	By allowing special event applicants to submit at least one of the four categories of documents mentioned therein
Criteria to measure community support	3(1)	By allowing special event applicants to submit at least one of the four categories of documents mentioned therein

SCHEDULE 2

APPLICATION FORM FOR SPECIAL EVENT LICENSES

Name

1. What is the full name of the applicant (organisation/person applying for the licence)?
2. What will be the name of the radio or television station if it is licensed?

Contact Details

3. Please provide the Authority with the following contact details:
 - 3.1 The full name of the organisation/body applying for the licence
 - 3.2 Street address
 - 3.3 Postal address
 - 3.4 Telephone numbers (for the applicant and key members of the applicant)
 - 3.5 Fax number
 - 3.6 E mail address

Legal Form of applicant

4. What is the legal form of the applicant? (Please tick the correct box)

Section 21 company	
Trust	
Voluntary Association	
Non-Profit Organisation	

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INDEPENDENT BROADCASTING AUTHORITY SOUTH AFRICAN MUSIC REGULATIONS, 1997.

REGULATIONS RELATING TO THE IMPOSITION OF SOUND BROADCASTING LICENCE CONDITIONS REGARDING SOUTH AFRICAN MUSIC

Published under Government Notice R622 in *Government Gazette* 17939 of 25 April 1997.

The Independent Broadcasting Authority has under [section 53](#) (3) of the Independent Broadcasting Authority Act, 1993 (Act No. 153 of 1993), made the regulations in the Schedule.

- [1. Definitions](#)
- [2. Application of these regulations](#)
- [3. Imposition of sound broadcasting licence conditions regarding South African music](#)
- [4. Records](#)
- [5. Short title](#)

SCHEDULE

1. Definitions

In these regulations any word to which a meaning has been assigned in the Independent Broadcasting Authority Act, 1993 (Act No. 153 of 1993), shall have that meaning and, unless the context indicates otherwise -

"Sound broadcasting licence" means a broadcasting licence granted and issued for the purpose of providing a sound broadcasting service;

"the performance period" means the period of 126 hours in one week measured between the hours 05:00 and 23:00 each day.

2. Application of these regulations

These regulations shall apply to the holder of any category of sound broadcasting licence which devotes 15% or more of its broadcasting time during the performance period to the broadcasting of music and shall be incorporated into the licence

2.1 in the case of a licensee holding a valid licence at the date of commencement of these regulations, on the day following the end of the sixth month after the date of commencement of these regulations;

2.2 in the case of a licence issued on or after the date of commencement of these regulations, from the date of commencement of broadcasting.

3. *Imposition of sound broadcasting licence conditions regarding South African music*

- 3.1 Every holder of a sound broadcasting licence to which these regulations apply must ensure that at least 20% of the musical works broadcast in the performance period consists of South African music and that such South African music is spread reasonably evenly throughout the said period.
- 3.2 The Authority may, upon written application and good cause shown by the holder of a sound broadcasting licence, grant exemption from any condition imposed by subregulation (1) or vary such condition, if it is satisfied that the exemption or variation is consistent with the objects of the Act and any regulations made thereunder.
- 3.3 The Authority will review these regulations within three years of their coming into effect with the intention of raising the quota for some or all categories of sound broadcasting licensees and reassessing the basis for calculating it.

4. *Records*

- 4.1 The holder of a sound broadcasting licence must keep and maintain logs, statistical forms and programme records in a format specified by the Authority containing -
- (a) full particulars of -
 - (i) all the musical works broadcast in each hour of each day of the performance period, indicating which are South African music;
 - (ii) each item of South African music identified clearly as required by the Authority.
 - (b) such other particulars as may be required by the Authority.
- 4.2 The logs, statistical forms and records contemplated in subregulation (1) must be preserved in an original form for a period of not less than 12 months after the date of last entry.

5. *Short title*

These regulations may be cited as the Independent Broadcasting Authority South African Music Regulations, 1997.

INDEPENDENT BROADCASTING AUTHORITY ACT 153 OF 1993

INDEPENDENT BROADCASTING AUTHORITY LOCAL TELEVISION CONTENT REGULATIONS OF 1997

REGULATIONS RELATING TO THE IMPOSITION OF SPECIFIC BROADCASTING LICENCE CONDITIONS REGARDING LOCAL TELEVISION CONTENT FOR PUBLIC AND PRIVATE TELEVISION BROADCASTING SERVICES

Published under Government Notice R661 in *Government Gazette* 17981 of 2 May 1997.

The Independent Broadcasting Authority has under [sections 53](#) (1) (v) and (vi), 53 (2), 53 (4) and 53 (5) read with [section 78](#) (1) of the Independent Broadcasting Authority Act, 1993 (Act 153 of 1993), made the regulations in the Schedule.

- [1. Preamble](#)
- [2. Definitions](#)
- [3. Public television licensee](#)
- [4. Private television licensees](#)
- [5. Subscription television service providers](#)
- [6. Independent television production](#)
- [7. Records](#)
- [8. Review of regulations](#)
- [9. Name of regulations](#)

SCHEDULE

1. PREAMBLE

The objective of these regulations is to develop, protect and promote a national and provincial identity, culture and character. In achieving this these regulations will seek to promote programming which:

- 1.1 is produced under South African creative control;
- 1.2 is identifiably South African, is developed for South African audiences and which recognises the diversity of all cultural backgrounds in South African society;
- 1.3 will develop a television industry which is owned and controlled by South Africans;
- 1.4 will establish a vibrant, dynamic, creative and economically productive South African film and television industry.

2. DEFINITIONS

In these regulations any word to which a meaning has been assigned in the Independent Broadcasting Authority Act (Act 153 of 1993), as amended, shall have that meaning unless the context indicates otherwise.

- 2.1 "Animation " means any form of television programming in which the images of character and action are made by photographing drawings, puppets or similar images in order to create the illusion of movement and includes such images created by computers;
- 2.2 "Children's programming" means programming in any format, which is specifically produced for persons under the age of 15 years, which contributes to the well being and social, emotional and intellectual development of persons in this age group, which are made from their point of view, and which are broadcast at times of the day when persons in this age group are available in substantial numbers to watch;
- 2.3 "Co-production" means a programme produced under circumstances in which the persons referred to in [section 53](#) (1) (ii) or (iii) of the Act have at least equal decision-making responsibility with the co-venture partners in respect of all the creative elements of the production;
- 2.4 "Current affairs programming" means programming that is not a news bulletin but which focuses on and includes comment on and interpretation and analysis of issues of immediate social, political or economic relevance and matters of international, national, regional and local significance;
- 2.5 "Documentary drama" means a fully scripted screen play in which the central theme is an event or events which actually occurred and in which actors are used to play the part of real characters who were involved in the events portrayed.
- 2.6 "Documentary programming" means a factual treatment or analysis of people, events or social issues, whether past or present, with a normal minimum duration of about half an hour with a single theme.
- 2.7 "Drama" means an audio-visual interpretation whether involving live actors or animation of a fully scripted screenplay or teleplay, literary work, dramatic work, folklore or improvised storytelling or performance, in which the dramatic elements of character, theme and plot are introduced and developed so as to form a narrative structure. It includes genres of drama such as situation comedy, soap operas and other genres in any of the following formats: one-off dramas including feature films, tele-plays and tele-movies, animated dramas, episodic drama series, serial dramas, mini-series and documentary drama.
- 2.8 "Educational programming" means programming in any format, specifically and primarily designed to support structured educational activity whether such structured activity relates to institutional-based education or to non-institutional based learning;
- 2.9 "Informal knowledge-building programming" means programming in any format which provides information on subjects such as, for example, science, technology,

health, law and citizens' rights, religion, business, finance and the natural or built environment;

- 2.10 "Key personnel", as contemplated in [section 53](#) (1) (a) (v) means the director/s, writer/s, at least 50% of the leading actors appearing in the programme, at least 75% of the major supporting cast, the production designer, the director of photography, the editor and the composer of original musical score;
- 2.11 "Post-production" means the processes following completion of production including the editing of images and sound, creation of special visual effects, subtitling, processing and duplication of programmes as well as any other process necessary for the completion of the production.
- 2.12 "Prime time" means the period between 18H00 and 22H00 every day;
- 2.13 "Produced" means a process of acquiring and/or developing a story or programme theme, selecting and engaging key creative personnel and exercising control over decisions relating to the development, costing, pre-production, production and post-production of the programme;
- 2.14 "Production" means the recording of images and sound to form the substantial and integral part of the programme.
- 2.15 "Production costs" in circumstances referred to in [section 53](#) (1) (a) (vi) of the Act means at least 80% of the pre-production and production costs are incurred in the Republic and that the post-production costs are wholly incurred in the Republic.,
- 2.16 "South African drama" means drama programming which consists of local television content and in which South Africans have exercised direction over the creative and administrative aspects of pre-production, production and post production. South Africans will be taken to have exercised such direction if:
- 2.16.1 in the case of programmes which have been produced in terms of [section 53](#) (1) (1), (ii), (iii) or (iv):
- (a) the director or directors of the programme and/or the writer or writers of the programme are South African; and
 - (b) not less than 50% of the leading actors appearing in the programme are South African; and
 - (c) not less than 75% of the major supporting cast, are South African; and
 - (d) not less than 50% of the crew are South African; and
 - (e) the post-production is wholly done in South Africa.
- 2.16.2 in the case of programmes produced in terms of [section 53](#) (1) (v) and (vi):
- (a) the key personnel are South African; and
 - (b) not less than 59% of the production crew are South African; and

(c) the post-production is wholly done in South Africa.

- 2.17 "South African television performance period" means the total number of hours between 05H00 and 23H00 every day.
- 2.18 "Subscription service provider" means either a person engaged in the compilation of programme material or the holder of a television broadcasting licence for the provision of a subscription television broadcasting service to South Africa whether such service is of a terrestrial or non-terrestrial nature;
- 2.19 "the Act" means the Independent Broadcasting Authority Act, 1993 (Act No. 153 of 1993)

3. PUBLIC TELEVISION LICENSEE

- 3.1 A public television licensee must ensure that after five years of these regulations coming into effect in the case of an existing licence holder and within eighteen months of the issue of a licence or such longer period as the Authority may determine, at least 50% of its programming during the South African television performance period and during prime time consists of local television content.
- 3.2 Where a public television licensee provides a broadcasting service which has more than one channel, that licensee must ensure that after two years of these regulations coming into effect across all channels a weekly average of 30% local television content during the South African television performance period is achieved, provided that on any one channel the licensee broadcasts a minimum of 25% local television content.
- 3.3 In complying with its obligation's in terms of Sections 3.1 and 3.2 above a public television licensee must ensure that at least:
- i) 20% of its drama programming consists of South African drama;
 - ii) 80% of its current affairs programming consists of South African current affairs;
 - iii) 50% of its documentary programming consists of South African documentary programming;
 - iv) 50% of its informal knowledge building programming consists of South African informal knowledge building programming;
 - v) 60% of its educational programming consists of South African educational programming;
 - vi) 50% of its children's programming consists of South African educational programming.

4. PRIVATE TELEVISION LICENSEES

- 4.2 The private television licensee must ensure that after two years of these regulations coming into effect or such longer period as the Authority may determine, a weekly average of 20% of its programming in the South African television performance period consists of local television content.
- 4.1 A private television licensee must ensure that at the commencement of its broadcasting service it achieves a weekly average of 10% of local television content during the South African television performance period.
- 4.3 In complying with its obligations in terms of Section 3.1 above, a private television licensee must ensure that at least:
- i) 10% of its drama programming consists of South African drama;
 - ii) 50% of its current affairs programming consists of South African current affairs;
 - iii) 25% of its documentary programming consists of South African documentary programming;
 - iv) 25% of its informal knowledge-budding programming consists of South African informal knowledge-building programming;
 - v) 20% of its children's programming consists of South African children's programming.

5. SUBSCRIPTION TELEVISION SERVICE PROVIDERS

- 5.1 A private subscription television service provider must ensure that a weekly average of 5% of its programming, or some greater proportion as may be determined by the Authority, during the South African television performance period consists of local television content within such categories as the Authority may determine.
- 5.2 Where a portion of the broadcasting service of a private television subscription provider is unencoded, then for the duration of that unencoded portion, it must ensure that a weekly average of 20% of its programming consists of local television content within such categories as may be determined by the Authority.
- 5.3 The Authority may, in lieu of the obligations on the private subscription television service provider in terms of sections 4.1 and, only in respect of its encoded broadcasting service referred to above, direct that the licensee must expend a specified sum of money as may be determined by the Authority on programming which has a local television content.

6. INDEPENDENT TELEVISION PRODUCTION

- 6.1 Public and private television licensees and subscription television service providers must ensure that at least 40% of their local television content programming consists of programmes which are independent television productions and the independent

television productions are spread reasonably evenly between, where applicable, South African drama, South African documentary, South African informal knowledge-building, South African children's and South African educational programming.

7. RECORDS

- 7.1 Public and private television licensees and subscription television service providers must keep and maintain logs, statistical forms and programme records in a format specified by the Authority: -
- (a) full particulars of all local television content programming broadcast in each week, indicating each category of local television content, as defined in 3.3. and 4.1 and
 - (b) such other particulars as may be required by the Authority
- 7.2 The logs, statistical forms and records contemplated in sub-regulation (1) must be preserved for a period of not less than 36 months after the last date of entry.

8. REVIEW OF REGULATIONS

- 8.1 The Authority may, two years after these regulations have come into effect, hold an inquiry to review the performance of a licensee's achievement of the local content quotas specified in these regulations.
- 8.2 In reviewing the performance of the licensee the Authority shall determine the procedure to be followed during the inquiry.
- 8.3 The Authority shall consider submissions made by the licensee and any interested person on its capacity to fulfil the local content quotas and may make such determination as it considers equitable in the circumstances.

9. NAME OF REGULATIONS

These regulations may be cited as the Independent Broadcasting Authority Local Television Content Regulations of 1997.

INDEPENDENT BROADCASTING AUTHORITY ACT 153 OF 1993

INDEPENDENT COMMUNICATIONS AUTHORITY OF SOUTH AFRICA

NOTICE OF PUBLICATION OF SOUTH AFRICAN CONTENT ON TELEVISION AND RADIO: POSITION PAPER AND REGULATIONS

Published under General Notice 245 in *Government Gazette* 23135 of 22 February 2002 and amended by:

Gen N 1216	GG 23614	12/7/2002
Gen N 2244	GG 25375	22/8/2003

[ICASA SOUTH AFRICAN TELEVISION CONTENT REGULATIONS](#)

[ICASA SOUTH AFRICAN MUSIC CONTENT REGULATIONS](#)

In accordance with [section 28](#) of the Independent Broadcasting Authority Act, Act 153 of 1993 as amended, the Independent Communications Authority of South Africa (“the Authority”) hereby publishes its Position Paper and Regulations on South African Content on Television and Radio.

Interested parties are invited to:

- (a) obtain from the Authority a copy of the South African Content on Television and Radio Position Paper and Regulations, and
- (b) the Position Paper will also be made available in the following languages at a later stage:
 1. Afrikaans;
 2. Sesotho;
 3. Tshivenda;
 4. Xitsonga; and
 5. IsiZulu.

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ICASA SOUTH AFRICAN TELEVISION CONTENT REGULATIONS

The Independent Communications Authority of South Africa has under [sections 53](#) (2), 53 (4) and 53 (5) read with [section 78](#) (1) of the Independent Broadcasting Authority Act, 1993 (Act 153 of 1993), made the regulations in the Schedule.

SCHEDULE

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1. Preamble

The objective of these regulations is to develop, protect and promote a national and provincial identity, culture and character. In achieving this, these regulations will seek to promote programming which:

- 1.1 is produced under South African creative control;
- 1.2 is identifiably South African, is developed for South African audiences and which recognises the diversity of all cultural backgrounds in South African society;
- 1.3 will develop a television industry which is owned and controlled by South Africans;
- 1.4 will establish a vibrant, dynamic, creative and economically productive South African film and television industry.

2. Definitions

In these regulations any word to which a meaning has been assigned in the Independent Broadcasting Authority Act (Act 153 of 1993), as amended, and the Broadcasting Act (No. 4 of 1999) shall have that meaning unless the context indicates otherwise.

- 2.1 “**Animation**” means any form of television programming in which the images of character and action are made by photographing drawings, puppets or similar images in order to create the illusion of movement and includes such images created by computers;
- 2.2 “**Animated Drama**” means a scripted fiction or non fiction story conveyed primarily through animated pictures and visuals;

- 2.3 **“Arts Programming”** means programming on culture and the arts, including, but not limited to the performing arts, visual arts, literature, fine arts, craft arts, creative writing, architecture and music but excluding programmes that exclusively feature music videos;
- 2.4 **“Channel”** means a single defined television programming service of a licensee other than a video on demand programming service;
- 2.5 **“Children’s Drama”** means a fully scripted screenplay or teleplay, produced for children, in which the dramatic elements of the character, theme and plot are introduced and developed so as to form a narrative structure. It includes sketch comedy programmes, animated drama and dramatised documentary, but does not include sketches within variety programmes, or characterisations within documentary programmes, or any other form of programme or segment within a programme which involves only the incidental use of actors;
- 2.6 **“Children’s Informal Knowledge Building Programming”** means programming which provides information, for children, on a wide range of social, political and economic issues, including but not limited to, children’s rights, health, early childhood development, culture, and justice;
- 2.7 **“Children’s Programming”** means programming which is specifically produced for persons between the ages of 0 to 6 years and 7 to 12 years, which is educational, made from their point of view, and which is broadcast at times of the day when persons in this age group are available in substantial numbers to watch,
- 2.8 **“Co-production”** means a programme produced under circumstances in which the persons referred to in [section 53](#) (1) (ii) or (iii) of the IBA Act have at least equal decision-making responsibility with the co-venture partners in respect of all the creative elements of the production;
- 2.9 **“Current Affairs Programming”** means programming that is not a news bulletin but which focuses on and includes comment on and interpretation and analysis of issues of immediate social, political or economic relevance and matters of international, national, regional and local significance;
- 2.10 **“Documentary Drama”** means a fully scripted screenplay in which the central theme is an event or events, which actually occurred and in which actors are used to play the part of real characters who were involved in the events portrayed;
- 2.11 **“Documentary Programming”** means a factual treatment or analysis of people, events or social issues, whether past or present, with a normal minimum duration of about half an hour with a single theme;
- 2.12 **“Drama”** means an audio-visual interpretation whether involving live actors or animation of a fully scripted screenplay or teleplay, literary work, dramatic work, folklore or improvised storytelling or performance, in which the dramatic elements of character, theme and plot are introduced and developed so as to form a narrative structure. It includes genres of drama such as situation comedy, soap operas and other genres in any of the following formats: one-off dramas including feature films, tale-plays and tale-movies, animated dramas, episodic drama series, serial dramas, mini-series and documentary drama;

- 2.13 **“Educational Programming”** means programming specifically and primarily designed to support structured educational activity whether such structured activity relates to institutional-based education or to non-institutional-based learning;
- 2.14 **“Episodic Drama Series”** means a drama series containing story-lines and developments that flow from episode to episode;
- 2.15 **“Feature Film”** means a film produced primarily for theatrical release in cinemas;
- 2.16 **“First Release Programme”** means a programme that is first broadcast by a television licensee in South Africa and has not already been broadcast by another South African broadcasting licensee;
- 2.17 **“Historically Disadvantaged Persons”** means black persons, women, and people with disabilities;
- 2.18 **“Informal Knowledge Building Programming”** means programming which provides information on subjects such as, for example, science, technology, health, law and citizens’ rights, religion, business, finance and the natural or built environment,
- 2.19 **“Independent Television Production”** means a production of South African television content by a person not directly or indirectly employed by any broadcasting licensee, or by a person who is not controlled by or is not in control of any broadcasting licensee;
- 2.20 **“Key Personnel”**, as contemplated in [section 53](#) (1) (a) (v) means the director/s, writer/s. at least 50% of the leading actors appearing in the programme, at least 75% of the major supporting cast, and the production designer, the director of photography, the editor and the composer of original musical score;
- 2.21 **“Magazine Programming”** means a programme containing a variety of informative elements usually grouped by subject matter-entertainment, fashion, actuality, etc;
- 2.22 **“Mini-Series”** means a series with a pre-determined number of episodes usually drama and usually 26 episodes or less;
- 2.23 **“Multilingual Drama”** means a drama containing more than one language as spoken by the characters;
- 2.24 **“Post-production”** means the processes following completion of production including the editing of images and sound, creation of special visual effects, subtitling, processing and duplication of programmes as well as any other process necessary for the completion of the production;
- 2.25 **“Prime Time”** means the period between 18H00 and 22H00 every day;
- 2.26 **“Produced”** means a process of acquiring and/or developing a story or programme theme, selecting and engaging key creative personnel and exercising control over decisions relating to the development, costing, pre-production, production and post-production of the programme;

- 2.27 **“Producer”** means the person who has the overall creative responsibility for a programme from beginning to end;
- 2.28 **“Production”** means the recording of images and sound to form the substantial and integral part of the programme;
- 2.29 **“Production Costs”** in circumstances referred to in [section 53](#) (1) (a) (vi) with reference to persons referred to in subparagraphs (i), (ii), or (iii) of the IBA Act means that a minimum of 20% of the pre-production and production costs is incurred in the Republic;
- 2.30 **“Repeat”** means television programming that is not a first broadcast by a South African television licensee or television programming that has been broadcast by another South African television licensee;
[Reg. 2.30 amended by Gen N 2244/2003]
- 2.31 **“Serial Drama”** means a drama series containing story-lines and developments that flow from episode to episode;
- 2.32 **“Situation Comedy”** means a television comedy set within a defined situation location, environment and characters and their relationships;
- 2.33 **“Soap Opera”** means a drama, usually daily, with an indefinite number of episodes and usually long-running;
- 2.34 **“South African Drama”** means drama programming which consists of South African television content and in which South Africans have exercised direction over the creative and administrative aspects of pre-production, production and post-production. South Africans will be taken to have exercised such direction if:
- 2.34.1 in the case of programmes which have been produced in terms of [section 53](#) (1)(a) (i), (ii), (iii) or (iv):
- (a) the director or directors of the programme and/or the writer or writers of the programme are South African;
 - (b) not less than 50% of the leading actors appearing in the programme are South African;
 - (c) not less than 75% of the major supporting cast, are South African; and
 - (d) not less than 50% of the crew are South African;
- 2.34.2 in the case of programmes produced in terms of [section 53](#) (1)(a) (v) and (vi):
- (a) not less than 50% of the production crew are South African; and
 - (b) South Africans are involved in post-production.
- 2.35 **“South African Television Performance Period”** means the total number of hours between 5H00 and 23H00 every day;

- 2.36 **“Subscription Service Provider”** means either a person engaged in the compilation of programme material or the holder of a television broadcasting licence for the provision of a subscription television broadcasting service in South Africa whether such service is of a terrestrial or non-terrestrial nature;
- 2.37 **“Talk Shows”** means a programme hosted by a particular personality dealing with a variety of issues;
- 2.38 **“Tele-play”** means a drama usually located in a narrowly defined geographical area, and usually less than 90 minutes in length and often adapted from a play written for stage drama;
- 2.39 **“Tele-movie”** means a film produced for television;
- 2.40 **“the Broadcasting Act”** means the Broadcasting Act, 1999 (Act No. 4 of 1999);
- 2.41 **“the IBA Act”** means the Independent Broadcasting Authority Act, 1993 (Act No. 153 of 1993).

3. Public Television Licensees

- 3.1 A public television licensee must ensure that after eighteen months of the gazetting of these regulations in the case of an existing licence holder or within eighteen months of the issue of a licence or such longer period as the Authority may determine, an annual average of 55% of its programming during the South African television performance period and during prime time consists of South African television content.
[Reg. 3.1 amended by Gen N 1216/2002 and Gen N 2244/2003]
- 3.2 Where a public television licensee provides a broadcasting service which has more than one channel, that licensee must ensure that after eighteen months of the gazetting of these regulations at least 55% of its programming on each channel during the South African television performance period and during prime time consists of South African television content.
[Reg. 3.2 amended by Gen N 1216/2002]
- 3.3 In complying with its obligations in terms of Sections 3.1 and 3.2 above a public television licensee must ensure that at least:
- (i) 35% of its drama programming consists of South African drama;
 - (ii) 80% of its current affairs programming consists of South African current affairs;
 - (iii) 50% of its documentary programming consists of South African documentary programming;
 - (iv) 50% of its informal knowledge building programming consists of South African informal knowledge building programming;
 - (v) 60% of its educational programming consists of South African educational programming;

- (vi) 55% of its children's programming consists of South African children's programming.

4. Public Commercial and Private Commercial Television Licensees

- 4.1 A commercial television licensee, including a public commercial television licensee, must ensure that after eighteen months of the gazetting of these regulations or such longer period as the Authority may determine, an annual average of 35% of its programming in the South African television performance period consists of South African television content.

[Reg. 4.1 amended by Gen N 1216/2002 and Gen N 2244/2003]

- 4.2 A commercial television licensee must ensure that at the commencement of its broadcasting service it achieves an annual average of 35% of South African television content during the South African television performance period.

[Reg. 4.2 amended by Gen N 2244/2003]

- 4.3 In complying with its obligations in terms of Section 4.1 above, a commercial television licensee must ensure that at least:

- (i) 20% of its drama programming consists of South African drama;
- (ii) 50% of its current affairs programming consists of South African current affairs;
- (iii) 30% of its documentary programming consists of South African documentary programming;
- (iv) 30% of its informal knowledge-building programming consists of South African informal knowledge building programming;
- (v) 25% of its children's programming consists of South African children's programming.

[Reg. 4.3 amended by Gen N 2244/2003]

5. Subscription Television Service Providers

- 5.1 A commercial subscription television service provider must ensure that an annual average of 8% of its programming, or some greater proportion as may be determined by the Authority, during the South African television performance period consists of South African television content within such categories as the Authority may determine.

[Reg. 5.1 amended by Gen N 2244/2003]

- 5.2 Where a portion of the broadcasting service of a commercial television subscription provider is unencoded, then for the duration of that unencoded portion, it must ensure that an annual average of 35% of its programming consists of South African television content, within such categories as may be determined by the Authority.

[Reg. 5.2 amended by Gen N 2244/2003]

- 5.3 In complying with its obligations in terms of Section 5.2 above, subscription television service provider must ensure that at least:

- (i) 20% of its drama programming consists of South African drama;
 - (ii) 15% of its other programming consists of South African programming;
- 5.4 The Authority may, in lieu of the obligations on the commercial subscription television service provider in terms of clause 5.1 and, only in respect of its encoded broadcasting service referred to above, direct that the licensee must spend a specified sum of money as may be determined by the Authority on programming which has a South African television content.

6. Independent Television Production

- 6.1 Public and commercial television licensees and subscription television service providers must ensure that at least 40% of their South African television content programming consists of programmes which are independent television productions and the independent television productions are spread reasonably evenly between, where applicable, South African arts programming, South African drama, South African documentary, South African informal knowledge-building, South African children's and South African educational programming.

7. Commissioning Procedures

- 7.1 Public, commercial and subscription television licensees/services shall ensure that their terms of trade and commissioning procedures are, inter alia, fair, transparent, and nondiscriminatory.

8. Formulas (Format Factors)

Format Factors only apply to the following listed categories:

- 8.1 The Drama Score for a South African drama is calculated using the following formula:

Drama Score = Format Factor (unit) x Duration (hours weekly);

- (a) for a South African drama program that is a one-off (including feature films, telemovies, and mini-series) e 4
- (b) or a South African drama that is a series/serial produced at the rate of one hour or less per week = 3
- (c) for a South African series/serial produced at the rate of more than one hour per week= 2

The formula for scoring drama points is:

Drama Score = Format Factor x Duration.

For example, a feature film is calculated as Format Factor (4 points) x 2 hours = 8 points.

Ten points are worth 1% towards the South African television content quota on a weekly basis.

8.2 The African Language Drama Score is calculated using the following formula:

Format Factor (unit) x Duration (hours weekly);

- (a) for drama in any of the following languages: isiNdebele, Sepedi, Sesotho, Setswana, Siswati, Tshivenda, Xitsonga, isiXhosa and isiZulu = 4

The formula for scoring African language drama points is: African Language Drama Score = Format Factor x Duration.

For example, a Tshivenda drama is calculated as Format Factor (4 points) x 1 hour = 4 points.

Ten points are worth 1% towards the South African television content quota on a weekly basis.

8.3 The Children's Programming Score is calculated using the following formula:

Format Factor (unit) x Duration (hours weekly);

- (a) for South African children's drama = 3
(b) for South African children's informal knowledge-building programme = 2

The formula for scoring children's programming points is: Children's Programming Score = Format Factor x Duration.

For example, South African children's drama is calculated as Format Factor (3 points) x 2 hours = 6 points. Ten points are worth 1% towards the South African television content quota on a weekly basis.

8.4 The Arts Programming Score is calculated using the following formula: Format Factor (unit) x Duration (hours weekly):

- (a) for South African performing arts, visual arts, literature, fine arts, craft arts, creative writing, architecture, and music (excluding programmes that exclusively feature music videos) = 2

The formula for scoring arts programming points is:

Arts Programming Score = Format Factor x Duration

For example, a programme on South African literature is calculated as Format Factor (2 points) x 1 hour = 2 points. Ten points are worth 1% towards the South African television content quota on a weekly basis.

8.5 The Score for Diversity in Commissioning is calculated using the following Formula: Format Factor (unit) x Duration (hours weekly);

- (a) for programming produced by an independent production company based in Mpumalanga, the Northern Province, the North West, the Northern Cape, the Free State, and the Eastern Cape = 3
- (b) for programming produced by an independent production company based in Kwazulu-Natal = 2
- (c) for programming produced by independent production company controlled by historically disadvantaged persons = 3

The formula is:

Independent Production Company Score = Points x Duration

For example, the formula for commissioning a Mpumalanga-based company is calculated as Format Factor (3 points), plus controlled by historically disadvantaged person(s) (3 points) x 1 hour. 6 points. Ten points are worth 1% towards the South African television content quota on a weekly basis.

8A The Repeats Score is:

- (a) for first repeat of a South African programme = 50%
- (b) for a South African programme originally screened on another South African television channel = 50%
- (c) for a rebroadcast of the week's episodes = 50%
[Reg. 8.6 renumbered to 8A and amended by Gen N 2244/2003]

9. Records

9.1 Public, commercial television licensees and subscription television service providers must keep and maintain logs, statistical forms and programme records in a format prescribed by the Authority:

- (a) full particulars of all South African content programming broadcast in each week, indicating each category of South African television content, as defined in 3.3, 4.3, and 5.3; and
- (b) full particulars of name(s) of the author(s) of the drama script indicating their nationalities, or that of the adaptor if it is drawn from a literary source;
- (c) full particulars of the name(s) of the drama director(s) indicating their nationalities;
- (d) a list of the creative and technical personnel involved in drama production indicating their nationalities and, in the case of performers, the roles they play.
- (e) such other particulars as may be required by the Authority

9.2 The logs, statistical forms and records contemplated in sub-regulation (1) must be preserved for a period of not less than 36 months after the last date of entry.

10. Review of Regulations

10.1 The Authority may, three years after these regulations have come into effect, hold an inquiry to review these regulations.

10.2 In reviewing the regulations the Authority shall determine the procedure to be followed during the inquiry.

10.3 The Authority shall consider submissions made by the licensee and any interested person on its capacity to fulfil the South African content quotas and may make such determination as it considers equitable in the circumstances.

11. Effective Date

The effective date of these regulations shall be 22 August 2003.

12. Short Title

These regulations will be called the ICASA South African Television Content Regulations of 2002.

ICASA SOUTH AFRICAN MUSIC CONTENT REGULATIONS

REGULATIONS RELATING TO THE IMPOSITION OF SOUND BROADCASTING LICENCE CONDITIONS REGARDING SOUTH AFRICAN MUSIC

The Independent Communications Authority of South Africa has under [sections 53](#) (3), 53 (4) and 53 (5) read with [section 78](#) (1) of the Independent Broadcasting Authority Act, 1993 (Act 153 of 1993), made the regulations in the Schedule.

SCHEDULE

- [1. Definitions](#)
- [2. Application of these Regulations](#)
- [3. Imposition of Sound Broadcasting Licence Conditions Regarding South African Music](#)
- [4. Formulas \(Format Factors\)](#)
- [5. Records](#)
- [6. Review of Regulations](#)
- [7. Effective Date](#)
- [8. Short Title](#)

1. Definitions

In these regulations any word to which a meaning has been assigned to it in the Independent Broadcasting Authority Act, 1993 (Act No. 153 of 1993) and the Broadcasting Act (Act No. 4 of 1999), shall have that meaning and, unless the context indicates otherwise

- 1.1 **“Documentary”** means a factual presentation or analysis of musicians or composers, whether past or present, with a normal minimum duration of five minutes;
- 1.2 **“Interview”** conversation between a radio presenter and musician(s) or composer(s) used as a basis of a broadcast, with a normal minimum duration of five minutes;
- 1.3 **“New Musician”** means a musician whose debut album has been on the market for six months or less;
- 1.4 **“Performance Period”** means the period of 126 hours in one week measured between the hours 05h00 and 23h00 each day;
- 1.5 **“Sound Broadcasting Licence”** means a broadcasting licence granted and issued for the purpose of providing a sound broadcasting service;
- 1.6 **“the Broadcasting Act”** means the Broadcasting Act, 1999 (Act No. 4 of 1999);
- 1.7 **“the IBA Act”** means the Independent Broadcasting Authority Act, 1993 (Act No. 153 of 1993)

2. Application of these Regulations

These regulations shall apply to the holder of any category of sound broadcasting licence, which devotes 15% or more of its broadcasting time during the performance period to the broadcasting of music and shall be incorporated in the licence:

- 2.1 In the case of a licensee holding a valid licence at the date of commencement of these regulations.
- 2.2 In the case of a licence issued on or after the date of commencement of these regulations, from the date of commencement of broadcasting.

3. Imposition of Sound Broadcasting Licence Conditions Regarding South African Music

3.1 Public Sound Broadcasting Licensee

Every holder of a public sound broadcasting licence to which these regulations apply must ensure that after eighteen months of the gazetting of these regulations, at least 40% of the musical works broadcast in the performance period consist of South African music and that such South African music is spread reasonably evenly throughout the said period.

[Reg. 3.1 amended by Gen N 1216/2002]

3.2 Public Commercial and Private Commercial Sound Broadcasting Licensee

Every holder of a commercial sound broadcasting licence to which these regulations apply must ensure that after eighteen months of the gazetting of these regulations, at least 25% of the musical works broadcast in the performance period consist of South African music and that such South African music is spread reasonably evenly throughout the said period.

[Reg. 3.2 amended by Gen N 1216/2002]

3.3 Community Sound Broadcasting Licensee

Every holder of a community sound broadcasting licence to which these regulations apply must ensure that after eighteen months of the gazetting of these regulations, at least 40% of the musical works broadcast in the performance period consist of South African music and that such South African music is spread reasonably evenly throughout the said period.

[Reg. 3.3 amended by Gen N 1216/2002]

3.4 Exemption

The Authority may, upon written application and good cause shown by the holder of a sound broadcasting licence, vary any condition imposed by subregulations (1, 2 and 3), if it is satisfied that the variation is consistent with the objects of the IBA Act, 1993 and the Broadcasting Act, 1999, and any regulations made thereunder.

4. Formulas (Format Factors)

4.1 The Music Points for 4.1(a) are calculated using the following formula:

Format Factor (unit) x Duration.

- (a) for every five minutes of coverage of live music = 2
- (b) for an interview with South African musician(s) or composer(s) with a normal minimum of five minutes = 2

Ten points are worth 1% towards the South African music content quota on a weekly basis.

[Reg. 4.1 amended by Gen N 1216/2002]

4.2 The Music Points for 4.2(a) are calculated using the following formula): Format Factor (unit) x number of tracks:

- (a) for promoting new musicians whose debut albums have been on the market for six months or less = 1

Ten points are worth 1% towards the South African music content quota on a weekly basis.

5. Records

5.1 The holder of a sound broadcasting licence shall keep and maintain logs, statistical forms and programme records to the satisfaction of the Authority containing:

- (a) particulars of -
 - (i) the percentages of South African music broadcast in the performance period;
 - (ii) the time and duration of every such broadcast;

(b) such other particulars as may be required by the Authority.

5.2 The logs, statistical forms and records contemplated in sub-regulation (1) shall be preserved in original for a period of not less than 12 months after the date of last entry.

6. Review of Regulations

6.1 The Authority may, three years after these regulations have come into effect, hold an inquiry to review these regulations.

6.2 In reviewing the regulations the Authority shall determine the procedure to be followed during the inquiry.

6.3 The Authority shall consider submissions made by the licensee and any interested person on its capacity to fulfil the South African content quotas and may make such determination as it considers equitable in the circumstances.

7. Effective Date

The effective date of these regulations shall be 22 August 2003.

8. Short Title

These regulations will be called the ICASA South African Music Content Regulations, 2002.

INDEPENDENT BROADCASTING AUTHORITY ACT 153 OF 1993

ICASA SOUTH AFRICAN TELEVISION CONTENT REGULATIONS

Published under General Notice 2247 in *Government Gazette* 25378 of 22 August 2003.

The Independent Communications Authority of South Africa has under [sections 53](#) (2), 53 (4) and 53 (5) read with [section 78](#) (1) of the Independent Broadcasting Authority Act, 1993 (Act 153 of 1993), made the regulations in the Schedule.

SCHEDULE

- [1. Preamble](#)
- [2. Definitions](#)
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1. Preamble

The objective of these regulations is to develop, protect and promote a national and provincial identity, culture and character. In achieving this, these regulations will seek to promote programming which:

- 1.1 is produced under South African creative control;
- 1.2 is identifiably South African, is developed for South African audiences and which recognises the diversity of all cultural backgrounds in South African society;
- 1.3 will develop a television industry which is owned and controlled by South Africans;
- 1.4 will establish a vibrant, dynamic, creative and economically productive South African film and television industry.

2. Definitions

In these regulations any word to which a meaning has been assigned in the Independent Broadcasting Authority Act (Act 153 of 1993), as amended, and the Broadcasting Act (No.4 of 1999) shall have that meaning unless the context indicates otherwise.

- 2.1 **“Animation”** means any form of television programming in which the images of character and action are made by photographing drawings, puppets or similar images in order to create the illusion of movement and includes such images created by computers;
- 2.2 **“Animated Drama”** means a scripted fiction or non fiction story conveyed primarily through animated pictures and visuals;
- 2.3 **“Arts Programming”** means programming on culture and the arts, including, but not limited to the performing arts, visual arts, literature, fine arts, craft arts, creative writing, architecture and music but excluding programmes that exclusively feature music videos;
- 2.4 **“Channel”** means a single defined television programming service of a licensee other than a video on demand programming service;
- 2.5 **“Children’s Drama”** means a fully scripted screenplay or teleplay, produced for children, in which the dramatic elements of the character, theme and plot are introduced and developed so as to form a narrative structure. It includes sketch comedy programmes, animated drama and dramatised documentary, but does not include sketches within variety programmes, or characterisations within documentary programmes, or any other form of programme or segment within a programme which involves only the incidental use of actors;
- 2.6 **“Children’s Informal Knowledge Building Programming”** means programming which provides information, for children, on a wide range of social, political and economic issues, including but not limited to, children’s rights, health, early childhood development, culture, and justice;
- 2.7 **“Children’s Programming”** means programming which is specifically produced for persons between the ages of 0 to 6 years and 7 to 12 years, which is educational, made from their point of view, and which is broadcast at times of the day when persons in this age group are available in substantial numbers to watch;
- 2.8 **“Co-production”** means a programme produced under circumstances in which the persons referred to in [section 53](#) (1) (ii) or (iii) of the IBA Act have at least equal decision-making responsibility with the co-venture partners in respect of all the creative elements of the production;
- 2.9 **“Current Affairs Programming”** means programming that is not a news bulletin but which focuses on and includes comment on and interpretation and analysis of issues of immediate social, political or economic relevance and matters of international, national, regional and local significance;
- 2.10 **“Documentary Drama”** means a fully scripted screenplay in which the central theme is an event or events, which actually occurred and in which actors are used to play the part of real characters who were involved in the events portrayed;
- 2.11 **“Documentary Programming”** means a factual treatment or analysis of people, events or social issues, whether past or present, with a normal minimum duration of about half an hour with a single theme;

- 2.12 **“Drama”** means an audio-visual interpretation whether involving live actors or animation of a fully scripted screenplay or teleplay, literary work, dramatic work, folklore or improvised storytelling or performance, in which the dramatic elements of character, theme and plot are introduced and developed so as to form a narrative structure. It includes genres of drama such as situation comedy, soap operas and other genres in any of the following formats: one-off dramas including feature films, tele-plays and tele-movies, animated dramas, episodic drama series, serial dramas, mini-series and documentary drama;
- 2.13 **“Educational Programming”** means programming specifically and primarily designed to support structured educational activity whether such structured activity relates to institutional-based education or to non-institutional-based learning;
- 2.14 **“Episodic Drama Series”** means a drama series containing story- lines and developments that flow from episode to episode;
- 2.15 **“Feature Film”** means a film produced primarily for theatrical release in cinemas;
- 2.16 **“First Release Programme”** means a programme that is first broadcast by a television licensee in South Africa and has not already been broadcast by another South African broadcasting licensee;
- 2.17 **“Historically Disadvantaged Persons”** means black persons, women, and people with disabilities;
- 2.18 **“Informal Knowledge-Building Programming”** means programming which provides information on subjects such as, for example, science, technology, health, law and citizens’ rights, religion, business, finance and the natural or built environment;
- 2.19 **“Independent Television Production”** means a production of South African television content by a person not directly or indirectly employed by any broadcasting licensee, or by a person who is not controlled by or is not in control of any broadcasting licensee;
- 2.20 **“Key Personnel”**, as contemplated in [section 53](#) (1) (a) (v)” means the director/s, writer/s, at least 50% of the leading actors appearing in the programme, at least 75% of the major supporting cast, and the production designer, the director of photography, the editor and the composer of original musical score;
- 2.21 **“Magazine Programming”** means a programme containing a variety of informative elements usually grouped by subject matter-entertainment, fashion, actuality, etc;
- 2.22 **“Mini-Series”** means a series with a pre-determined number of episodes usually drama and usually 26 episodes or less;
- 2.23 **“Multilingual Drama”** means a drama containing more than one language as spoken by the characters;
- 2.24 **“Post-production”** means the processes following completion of production including the editing of images and sound, creation of special visual effects, sub-

titling, processing and duplication of programmes as well as any other process necessary for the completion of the production;

- 2.25 **“Prime Time”** means the period between 18H00 and 22H00 every day;
- 2.26 **“Produced”** means a process of acquiring and/or developing a story or programme theme, selecting and engaging key creative personnel and exercising control over decisions relating to the development, costing, pre-production, production and post-production of the programme;
- 2.27 **“Producer”** means the person who has the overall creative responsibility for a programme from beginning to end;
- 2.28 **“Production”** means the recording of images and sound to form the substantial and integral part of the programme;
- 2.29 **“Production Costs”** in circumstances referred to in [section 53](#) (1) (a) (vi) with reference to persons referred to in subparagraphs (i), (ii), or (iii) of the IBA Act means that a minimum of 20% of the pre-production and production costs is incurred in the Republic;
- 2.30 **“Repeat”** means television programming that is not a first broadcast by a South African television licensee and has been broadcast by another South African television licensee;
- 2.31 **“Serial Drama”** means a drama series containing story-lines and developments that flow from episode to episode;
- 2.32 **“Situation Comedy”** means a television comedy set within a defined situation location, environment and characters and their relationships;
- 2.33 **“Soap Opera”** means a drama, usually daily, with an indefinite number of episodes and usually long-running;
- 2.34 **“South African Drama”** means drama programming which consists of South African television content and in which South Africans have exercised direction over the creative and administrative aspects of pre-production, production and post-production. South Africans will be taken to have exercised such direction if:
- 2.34.1 in the case of programmes which have been produced in terms of [section 53](#)(1)(a) (i), (ii), (iii) or (iv):
- (a) the director or directors of the programme and/or the writer or writers of the programme are South African;
 - (b) not less than 50% of the leading actors appearing in the programme are South African;
 - (c) not less than 75% of the major supporting cast, are South African; and
 - (d) not less than 50% of the crew are South African;

- 2.34.2 In the case of programmes produced in terms of [section 53](#) (1)(a) (v) and (vi):
- (a) not less than 50% of the production crew are South African; and
 - (b) South Africans are involved in post-production.
- 2.35 **“South African Television Performance Period”** means the total number of hours between 5H00 and 23H00 every day;
- 2.36 **“Subscription Service provider”** means either a person engaged in the compilation of programme material or the holder of a television broadcasting licence for the provision of a subscription television broadcasting service in South Africa whether such service is of a terrestrial or non-terrestrial nature;
- 2.37 **“Talk Shows”** means a programme hosted by a particular personality dealing with a variety of issues;
- 2.38 **“Tale-play”** means a drama usually located in a narrowly defined geographical area, and usually less than 90 minutes in length and often adapted from a play written for stage drama;
- 2.39 **“Tele-movie”** means a film produced for television;
- 2.40 **“the Broadcasting Act”** means the Broadcasting Act, 1999 (Act No.4 of 1999);
- 2.41 **“the IBA Act”** means the Independent Broadcasting Authority Act, 1993 (Act No. 153 of 1993).

3. Public Television Licensees

- 3.1 A public television licensee must ensure that after eighteen months of the gazetting of these regulations in the case of an existing licence holder or within eighteen months of the issue of a licence or such longer period as the Authority may determine, an annual average of 55% of its programming during the South African television performance period and during prime time consists of South African television content.
- 3.2 Where a public television licensee provides a broadcasting service which has more than one channel, that licensee must ensure that after eighteen months of the gazetting of these regulations at least 55% of its programming on each channel during the South African television performance period and during prime time consists of South African television content.
- 3.3 In complying with its obligations in terms of Sections 3.1 and 3.2 above a public television licensee must ensure that at least:
- (i) 35% of its drama programming consists of South African drama;
 - (ii) 80% of its current affairs programming consists of South African current affairs;

- (iii) 50% of its documentary programming consists of South African documentary programming;
- (iv) 50% of its informal knowledge building programming consists of South African informal knowledge building programming;
- (v) 60% of its educational programming consists of South African educational programming;
- (vi) 55% of its children' programming consists of South African children's programming.

4. Public Commercial and Private Commercial Television Licensees

- 4.1 A commercial television licensee, including a public commercial television licensee, must ensure that after eighteen months of the gazetting of these regulations or such longer period as the Authority may determine, an annual average of 35% of its programming in the South African television performance period consists of South African television content.
- 4.2 A commercial television licensee must ensure that at the commencement of its broadcasting service it achieves an annual average of 35% of South African television content during the South African television performance period.
- 4.3 In complying with its obligations in terms of Section 4.1 above, a commercial television licensee must ensure that at least:
 - (i) 20% of its drama programming consists of South African drama;
 - (ii) 50% of its current affairs programming consists of South African current affairs;
 - (iii) 30% of its documentary programming consists of South African documentary programming;
 - (iv) 30% of its informal knowledge-building programming consists of South African informal knowledge building programming;
 - (v) 25% of its children's programming consists of South African children's programming.

5. Subscription Television Service Providers

- 5.1 A commercial subscription television service provider must ensure that an annual average of 8% of its programming, or some greater proportion as may be determined by the Authority, during the South African television performance period consists of South African television content within such categories as the Authority may determine.
- 5.2 Where a portion of the broadcasting service of a commercial television subscription provider is unencoded, then for the duration of that unencoded portion, it must

ensure that an annual average of 35% of its programming consists of South African television content within such categories as may be determined by the Authority.

5.3 In complying with its obligations in terms of Section 5.2 above, subscription television service provider must ensure that at least:

- (i) 20% of its drama programming consists of South African drama;
- (ii) 15% of its other programming consists of South African programming;

5.4 The Authority may, in lieu of the obligations on the commercial subscription television service provider in terms of clause 5.1 and, only in respect of its encoded broadcasting service referred to above, direct that the licensee must spend a specified sum of money as may be determined by the Authority on programming which has a South African television content.

6. Independent Television Production

6.1 Public and commercial television licensees and subscription television service providers must ensure that at least 40% of their South African television content programming consists of programmes which are independent television productions and the independent television productions are spread reasonably evenly between, where applicable, South African arts programming, South African drama, South African documentary, South African informal knowledge-building, South African children's and South African educational programming.

7. Commissioning Procedures

7.1 Public, commercial and subscription television licensees/services shall ensure that their terms of trade and commissioning procedures are, inter alia, fair, transparent, and non-discriminatory.

8. Formulas (Format Factors)

Format Factors only apply to the following listed categories:

8.1 The Drama Score for a South African drama is calculated using the following formula:

Drama Score = Format Factor (unit) x Duration (hours weekly);

- (a) for a South African drama program that is a one-off (including feature films, telemovies, and mini-series) = 4
- (b) for a South African drama that is a series/serial produced at the rate of one hour or less per week = 3
- (c) for a South African series/serial produced at the rate of more than one hour per week = 2

The formula for scoring drama points is.

Drama Score = Format Factor x Duration.

For example, a feature film is calculated as Format Factor (4 points) x 2 hours = 8 points.

Ten points are worth 1% towards the South African television content quota on a weekly basis.

8.2 The African Language Drama Score is calculated using the following formula:

Format Factor (unit) x Duration (hours weekly);

- (a) for drama in any of the following languages: isiNdebele, Sepedi, Sesotho, Setswana, Siswati, Tshivenda, Xitsonga, isiXhosa and isiZulu = 4

The formula for scoring African language drama points is:

African Language Drama Score = Format Factor x Duration.

For example, a Tshivenda drama is calculated as Format Factor (4 points) x 1 hour = 4 points.

Ten points are worth 1% towards the South African television content quota on a weekly basis.

8.3 The Children's Programming Score is calculated using the following formula:

Format Factor (unit) x Duration (hours weekly);

- (a) for South African children's drama = 3
- (b) for South African children's informal knowledge-building programme = 2

The formula for scoring children's programming points is:

Children's Programming Score = Format Factor x Duration.

For example, South African children's drama is calculated as Format Factor (3 points) x 2 hours = 6 points.

Ten points are worth 1% towards the South African television content quota on a weekly basis.

8.4 The Arts Programming Score is calculated using the following formula: Format Factor (unit) x Duration (hours weekly):

- (a) for South African performing arts, visual arts, literature, fine arts, craft arts, creative writing, architecture, and music (excluding programmes that exclusively feature music videos) = 2

The formula for scoring arts programming points is: Arts Programming Score = Format Factor x Duration

For example, a programme on South African literature is calculated as Format Factor (2 points) x 1 hour = 2 points.

Ten points are worth 1% towards the South African television content quota on a weekly basis.

8.5 The Score for Diversity in Commissioning is calculated using the following Formula: Format Factor (unit) x Duration (hours weekly);

- (a) for programming produced by an independent production company based in Mpumalanga, the Northern Province, the North West, the Northern Cape, the Free State, and the Eastern Cape = 3
- (b) for programming produced by an independent production company based in Kwazulu-Natal = 2
- (c) for programming produced by independent production company controlled by historically disadvantaged persons = 3

The formula is:

Independent Production Company Score = Points x Duration

For example, the formula for commissioning a Mpumalanga-based company is calculated as Format Factor (3 points), plus controlled by historically disadvantaged person(s) (3 points) x 1 hour = 6 points.

Ten points are worth 1% towards the South African television content quota on a weekly basis.

8A. Repeats The Repeats Score is:

- (a) for first repeat of a South African programme = 50%
- (b) for a South African programme originally screened on another South African television channel = 50%
- (c) for a rebroadcast of the week's episodes = 50%
- (d) any further repeats of the programme shall not count towards compliance with the South African content quota.

9. Records

9.1 Public, commercial television licensees and subscription television service providers must keep and maintain logs, statistical forms and programme records in a format prescribed by the Authority:

- (a) full particulars of all South African content programming broadcast in each week, indicating each category of South African television content, as defined in 3.3, 4.3, and 5.3;

- (b) full particulars of name(s) of the author(s) of the drama script indicating their nationalities, or that of the adaptor if it is drawn from a literary source;
- (c) full particulars of the name(s) of the drama director(s) indicating their nationalities;
- (d) a list of the creative and technical personnel involved in drama production indicating their nationalities and, in the case of performers, the roles they play; and
- (e) such other particulars as may be required by the Authority

9.2 The logs, statistical forms and records contemplated in sub- regulation (1) must be preserved for a period of not less than 36 months after the last date of entry.

10. Review of Regulations

10.1 The Authority may, three years after these regulations have come into effect, hold an inquiry to review these regulations.

10.2 In reviewing the regulations the Authority shall determine the procedure to be followed during the inquiry.

10.3 The Authority shall consider submissions made by the licensee and any interested person on its capacity to fulfil the South African content quotas and may make such determination as it considers equitable in the circumstances.

11. Effective Date

The effective date of these regulations shall be 22 August 2003.

12. Short Title

These regulations will be called the ICASA South African Television Content Regulations of 2002.

INDEPENDENT BROADCASTING AUTHORITY ACT 153 OF 1993

INDEPENDENT BROADCASTING AUTHORITY FINES AND PENALTIES REGULATIONS 1998.

REGULATIONS REGARDING FINES AND PENALTIES RELATING TO NON-COMPLIANCE OR NON-ADHERENCE BY LICENCEES TO PROVISIONS OF THE INDEPENDENT BROADCASTING AUTHORITY ACT, REGULATIONS ISSUES THEREUNDER AND LICENCE CONDITIONS.

Published under Government Notice R1227 in *Government Gazette* 19303 of 25 September 1998.

The Independent Broadcasting Authority has under [section 66](#)(1) (d) of the Independent Broadcasting Authority Act (Act No. 153 of 1993) made the regulations in the Schedule.

- [1. Definitions](#)
- [2. Fines and Penalties](#)
- [3. Method of Payment](#)
- [4. Short Title](#)

SCHEDULE

1. Definitions

1.1 “category one contravention” means a contravention of.

- 1.1.1 [sections 35](#)(1), 35(2), [36](#), [38A](#)(1), 38A(2), [48](#), [49](#)(1). 49(2). 49(3), 49(4), 49(5), [50](#)(1), [58](#), [59](#)(1), 59(5), 59(6), 59(7), 59(8), [60](#) and [61](#) of the Act;
- 1.1.2 regulations issued by the Authority from time to time, relating to compliance by licensees with such technical specifications or requirements as are set out;
- 1.1.3 regulations issued by the Authority in respect. of broadcasting activities during election periods;
- 1.1.4 provisions of the licence conditions defining the broadcasting service as community, public or private, as set out in [section 1](#) of the Act; and,
- 1.1.5 provisions of the licence conditions defining the technical specifications of a licensee and imposing obligations on a licensee in respect of the operation of technical equipment and use of the frequency spectrum, and as set out in the relevant schedules to the licence.

1.2 “category two contravention”, means a contravention of:

- 1.2.1 [sections 37](#), [55](#)(1), [56](#), [57](#)(1) and [72](#) of the Act;

- 1.2.2 regulations relating to the broadcasting of South African Music by licensees;
 - 1.2.3 regulations relating to the broadcasting of South African Television Content by licensees;
 - 1.2.4 licence conditions pertaining to programming and advertising as set out in the relevant schedules to the licence;
 - 1.2.5 licence conditions pertaining to the promise of performance by the licensee, as set out in the relevant schedule to the licence; and,
 - 1.2.6 licence conditions pertaining to human resources requirements to be fulfilled by the licensee as set out in the relevant schedule to the licence.
- 1.3 “category three contravention” means a contravention which does not include any matter listed in categories one or two and which relates to formal requirements in the licence conditions or any other matter which, in the opinion of the Authority fails within this category.
- 1.4 “contravention” means an instance of non-compliance or non-adherence as referred to in [section 62\(3\)](#) of the Act and “contravenes” and ‘contravening’ shall have corresponding meanings.
- 1.5 “licensee” means any broadcasting licensee or signal distribution licensee.
- 1.6 “the Act” means the Independent Broadcasting Authority Act 153 of 1993. and any word or expression to which a meaning has been assigned in the Act shall bear such meaning.

2. Fines and Penalties

- 2.1 A licensee who contravenes a provision of the Act, regulations or licence conditions, as contemplated under category one, shall be liable to a fine not exceeding R500 000.
- 2.2 A licensee who contravenes a provision of the Act, regulations or licence conditions as contemplated under category two shall be liable to:
- 2.2.1 a fine not exceeding R250 000; or,
 - 2.2.2 where applicable, in the case of a contravention contemplated in 1.2.2, 1.2.3, 1.2.4 or 1.2.5 of these regulations, increasing its programming quota, as determined by the Authority but not exceeding the percentage quota which the licensee has failed or neglected to broadcast in terms of its minimum programming requirements in the licence conditions; or
 - 2.2.3 both 2.2.1 and 2.2.2 above.
- 2.3 A licensee who contravenes a provision of the regulations or licence conditions as contemplated under category three shall be liable to a fine not exceeding R20 000.

3. Method of Payment

- 3.1 Any fine or penalty imposed on a licensee in terms of these regulations shall be made to the Authority within 30 days of the order under [section 66\(1\)\(d\)](#) of the Act.
- 3.2 Payment made under regulation 3.1 shall be by means of a crossed bank-guaranteed cheque made out to the Independent Broadcasting Authority, or such payment as approved by the Authority in writing from time to time.
- 3.3 Failure by a licensee to effect payment within the prescribed period shall render such licensee liable to:
 - 3.3.1 interest on the fine or penalty at a rate of prime plus 2%; or
 - 3.3.2 prosecution for an offence under [section 67\(2\)](#) of the Act; or
 - 3.3.3 both 3.3.1 and 3.3.2 above

4. Short Title

These regulations may be cited as the Independent Broadcasting Authority Fines and Penalties Regulations 1998.

INDEPENDENT BROADCASTING AUTHORITY ACT 153 OF 1993

REGULATIONS REGARDING FINES AND PENALTIES RELATING TO NON COMPLIANCE OR NON ADHERENCE BY LICENSEES TO PROVISIONS OF THE INDEPENDENT BROADCASTING AUTHORITY ACT, THE BROADCASTING ACT, REGULATIONS ISSUES THEREUNDER AND LICENCE CONDITIONS.

Published under General Notice 3002 in *Government Gazette* 24070 of 13 November 2002.

The Independent Communications Authority of South Africa Authority has under [section 66\(1\)](#) (d) of the Independent Broadcasting Authority Act (Act No. 153 of 1993) made the regulation in the Schedule.

SCHEDULE

1. [Definitions](#)
2. [Fines and Penalties](#)
3. [Method of Payment](#)
4. [Short Title](#)

1. Definitions

1.1 “**category one contravention**” means a contravention of:

1.1.1 [sections 35](#)(1), 35(2), [36](#), [38A](#)(1), 38A(2), [43](#), [49](#)(1), 49(2), 49(3), 49(4), 49(5), [50](#)(1), 50(2), [58](#), [59](#)(1), 59(5), 59(6), 59(7), 59(8), [60](#) and [61](#) of the Act;

1.1.2 [section 30](#)(6) of the Broadcasting Act;

1.1.3 regulations issued by the Authority from time to time, relating to compliance by licensees with such technical specifications or requirements as are set out;

1.1.4 regulations issued by the Authority in respect of broadcasting activities during election periods;

1.1.5 the provisions of the licence conditions defining the broadcasting service as community, public, commercial or subscription, as set out in [section 1](#) of the Act and the Broadcasting Act;

1.1.6 the provision of the licence conditions defining the technical specifications of a licensee and imposing obligations on a licensee in respect of the operation of technical equipment and use of the frequency spectrum, and as set out in the relevant schedules to the licence;

1.1.7 the provision in the licence conditions setting out the ownership and control structures of a licensee in the relevant schedules of the licence;

1.1.8 regulations issued by the Authority in relation to the broadcasting of South African Music Content by licensees;

- 1.1.9 regulations issued by the Authority in relation to the broadcasting of South African Television Content by licensees;
- 1.2 **“category two contravention”**, means a contravention of:
- 1.2.1 [sections 37, 55\(1\), 56, 57\(9\) and 72](#) of the Act;
- 1.2.2 regulations issued by the Authority in relation to the regulation of advertising, infomercials and programme sponsorship;
- 1.2.2 any licence conditions pertaining to programming and advertising as set out in the relevant schedules to the licence;
- 1.2.3 any licence conditions pertaining to the promise of performance by the licensee, as set out in the relevant schedule to the licence; and,
- 1.2.4 any licence conditions pertaining to human resources requirements to be fulfilled by the licensee as set out in the relevant schedule to the licence.
- 1.3 **“category three contravention”** means a contravention which does not include any contravention listed in categories one or two and which relates to formal requirements in the licence conditions and/or to any other requirements the Authority might publish, by way of regulation, from time to time. .
- 1.4 **Category four contravention** means a contravention contemplated under [section 44\(6\) \(b\)](#) of the Act.
- 1.5 **“Contravention”** means an instance of non-compliance or non-adherence referred to in [section 62\(3\)](#) of the Act and “contravenes” and “contravening” shall have corresponding meanings.
- 1.6 **“licensee”** means any licence issued under the provisions of the IBA Act or the Broadcasting Act.
- 1.7 **“the Act”** means the Independent Broadcasting Authority Act 153 of 1993, as amended;
- 1.8 **“Broadcasting Act”** means the Broadcasting Act 4 of 1999, as amended and any word or expression to which a meaning has been assigned in the Act shall bear such meaning.

2. **Fines and Penalties**

- 2.1 A licensee who contravenes a provision of the Act, regulations or licence conditions, as contemplated under category one, shall be liable to a fine not exceeding R 1 000 000 (one million rands).

A licensee who contravenes a provision of the Act, regulations or license conditions as contemplated under category two shall be liable to:

- 2.2.1 a fine not exceeding R 500 000; (Five hundred thousand rands) or,

2.2.2 where applicable, in the case of a contravention contemplated in 1.2.2, 1.2.3, 1.2.4 or 1.2.5 of these regulations, increasing its programming quota, as determined by the Authority but not exceeding the percentage quota which the licensee has failed or neglected to broadcast in terms of its minimum programming requirements in the licence conditions;
or,

2.2.3 both 2.2.1 and 2.2.2 above.

2.3 A licensee who contravenes a provision of the regulations or licence conditions as contemplated under category three shall be liable to a fine not exceeding R100 000 (hundred thousand rands).

2.4 A licensee who contravenes the provisions of [section 44](#) of the Act shall be liable to a penalty not exceeding R50000.00 (fifty thousand rands), for each day the licensee fails to comply with the provisions of the section.

3. Method of Payment

3.1 Any fine or penalty imposed on a licensee in terms of these regulations shall be paid to the Authority within 30 days of the order under [section 66\(1\)\(d\)](#) of the Act.

3.2 Payment made under regulation 3.1 shall be by means of a crossed bank guaranteed cheque made out to the Independent Communications Authority of South Africa or such payment as approved by the Authority in writing from time to time.

3.3 Failure by a licensee to effect payment within the, prescribed period shall render such licensee liable to:

3.3.1 interest on the fine or penalty at a rate of prime plus 2%, or

3.3.2 prosecution for an offence under [section 67\(2\)](#) of the Act; or

3.3.3 both 3.3.1 and 3.3.2 above

4. Short Title

These regulations may be cited as the Independent Communications Authority of South Africa Fines and Penalties Regulations 2002.

INDEPENDENT BROADCASTING AUTHORITY ACT 153 OF 1993

INDEPENDENT BROADCASTING AUTHORITY SOUND BROADCASTING SERVICE RECORDS REGULATIONS, 1997.

REGULATIONS RELATING TO RECORDS TO BE KEPT BY SOUND BROADCASTING LICENSEES

Published under Government Notice R623 in *Government Gazette* 17939 of 25 April 1997.

The Independent Broadcasting Authority has under [section 71](#) (1) of the Independent Broadcasting Authority Act, 1993 (Act No. 153 of 1993), made the regulations in the Schedule.

- [1. Definitions](#)
- [2. Records to be kept by all sound broadcasting licensees](#)
- [3. Community sound broadcasting services](#)
- [4.](#)
- [5.](#)
- [6.](#)
- [7. Short title](#)

SCHEDULE

1. Definitions

In these regulations, unless the context indicates otherwise, any word to which a meaning has been assigned in the Independent Broadcasting Authority Act (Act No. 1153 of 1993), shall have that meaning and, unless the context indicates otherwise -

"sound broadcasting licensee" means a person holding a broadcasting licence which has been issued for the purpose of providing a sound broadcasting service.

2. Records to be kept by all sound broadcasting licensees

2.1 A broadcasting licensee must, to the satisfaction of the Authority, in addition to Records prescribed by any other law, keep the following records relating to its broadcasting activities:

- (a) Documentation relating to the person or entity who or which is in control of or in a position to exercise control over the licensee concerned including documentation relating to -
 - (i) the legal status and the constitution and any other founding document of the licensee;
 - (ii) details of the directors, members or trustees and the gender, race and address of such persons; and
 - (iii) in the case of a licensee which is a company, the shareholding, the extent thereof and any changes which may occur in the control thereof;

- (b) a list of capital assets, books of account, financial records and audited financial statements;
- (c) all documentation pertaining to the opening, maintenance and changes in the status to banking accounts;
- (d) all contracts entered into by or on behalf of the licensee in connection with the daily operational activities of the licensee;
- (e) a log of all programmes broadcast in a form acceptable to the Authority;
- (f) proposed programme schedules in respect of future programming;
- (g) a public file, which includes the licence conditions of the licensee, for keeping -
 - (i) written complaints received by the licensee;
 - (ii) correspondence between the licensee and complainants;
 - (iii) a log of telephonic complaints received by the licensee;
- (h) information pertaining to personnel records including full details of individuals employed by the licensee on a full-time or part-time basis including an indication of the race and gender of each employee, the length of service and information pertaining to the status of each employee, as well as training programmes conducted by the licensee and attendance thereat;
- (i) a log of all advertisements broadcast;
- (j) a log of the percentage airtime per hour allocated to advertisements;
- (k) during an election period, a public file, for keeping -
 - (i) a log of all party-political advertisements broadcast by the licensee;
 - (ii) where applicable, a log of all party election broadcasts broadcast by the licensee;
- (l) a log of all sponsorships for programmes together with details of payment, financial or otherwise, received by the licensee for such sponsorship;
- (m) information pertaining to on-air fund-raising events, including details of the purpose for which such funds are to be utilised;

3. Community sound broadcasting services

3.1 In addition to the above-mentioned records, a community sound broadcasting licensee must keep the following records:

- (a) Minutes of the proceedings of all meetings including annual general meetings and special meetings of the licensee;

- (b) copies of membership records and surveys undertaken to ascertain community support;
 - (c) a list of donors and details of all financial and non-monetary donations;
- 4. For the purposes of subregulation 3 (c), "donations" includes prizes, non-cash donations, grants or sponsorships made available for the licensee's use or awarded to the public, sections of the public, a community, or subscribers, and "donors" and "donated" shall have corresponding meanings.
- 5. The records prescribed by regulations 2 and 3 must be preserved for a period of two years.
- 6. A licensee may, by notice directed to him or her be required to produce or furnish to the Authority, at a time and place specified in the notice such records, including documents, accounts, estimates, returns and information as may be specified in such notice and relating to any matter in respect of which a duty or obligation is imposed on the licensee by the Act or these regulations or by the relevant licence.

7. **Short title**

These regulations may be cited as the Independent Broadcasting Authority Sound Broadcasting Service Records Regulations, 1997.

INDEPENDENT BROADCASTING AUTHORITY ACT 153 OF 1993

INDEPENDENT BROADCASTING AUTHORITY TELEVISION BROADCASTING SERVICE RECORDS REGULATIONS, 1998.

REGULATIONS RELATING TO RECORDS TO BE KEPT BY TELEVISION BROADCASTING LICENSEES.

Published under Government Notice R1226 in *Government Gazette* 19303 of 25 September 1998.

The Independent Broadcasting Authority has under [Section 71\(2\)](#) of the Independent Broadcasting Authority Act 1993 (Act No 153 of 1993), made the regulations in the Schedule.

- [1. Definitions](#)
- [2. Records to be kept by all television broadcasting licensees.](#)
- [3.](#)
- [4.](#)
- [5. Short](#)

SCHEDULE

1. Definitions

- 1.1 In these regulations, unless the context indicates otherwise, any word to which a meaning has been assigned to it in the Independent Broadcasting Authority Act (No. 153 of 1993) shall have that meaning.
- 1.2 **"Television Broadcasting licence"** means a broadcasting licence granted and issued for the purpose of providing a television broadcasting service.
- 1.3 **"Television Broadcasting licensee"** means a person holding a broadcasting licence, which has been issued for the purpose of providing a television broadcasting service.

2. Records to be kept by all television broadcasting licensees.

A television broadcasting licensee shall, to the satisfaction of the Authority, in addition to records prescribed by any other law, keep the following records relating to its broadcasting activities -

- (a) documentation relating to the person or entity who or which is in control of or in a position to exercise control over the licensee concerned including documentation relating to -
 - (i) its legal status including all foundation pertaining to the licensed entity;
 - (ii) details of the directors, members or trustees including the gender, race and address of such person or entity, as the case may be; and

- (iii) in the case of a licensee which is a company, the shareholding, the extent thereof and any changes which may occur in the control thereof:
- (b) an inventory of all capital assets including both movable and immovable items;
- (c) up to date books of account and relevant financial record together with all necessary supporting vouchers and documentation.
- (d) audited annual financial statements;
- (e) all documentation pertaining to the opening, maintenance and changes in the status of banking accounts;
- (f) copies of all contracts entered into by or on behalf of the licensee in connection with the daily operational activities of the licensee;
- (g) a log of all programmes broadcast in a form acceptable to the Authority;
- (h) proposed monthly programme schedules in respect of future programming;
- (i) a file accessible to the public for keeping -
 - (i) written complaints received by the licensee;
 - (ii) correspondence between the licensee and complainants
 - (iii) a log of telephonic complaints received by the licensee setting out the date, time, name and address of the complainant together with details of the nature of the complaint received;
- (j) information pertaining to personnel records including full details of individuals employed by the licensee on a full time or part-time basis and this includes indication of the race and gender of each employee, the length of service and information pertaining to the occupation and level of each employee as well as training programmes arranged by a licensee;
- (k) a log of all advertisements broadcast;
- (l) a log of the percentage air-time per hour allocated to advertisements;
- (m) during an election period a log of all party-political advertisements broadcast by the licensee;
- (n) during an election period, where applicable, a log of all party election broadcasts broadcast by the licensee;
- (o) a log of all sponsorships received for programmes, news, game shows, welfare activities or any similar programming together with details of payment, financial or otherwise, received from such sponsorship, and
- (p) copies of all correspondence with the Authority.

3. The records prescribed in regulations 2 and 3 must be preserved for a period of 1 (one) year.
4. A licensee may, by notice directed to him or her be required to produce or furnish to, the Authority, at a time and place specified in the notice such records, including documents, accounts, estimates, returns and information as may be specified in such notice and relating to any matter in respect of which a duty or obligation is imposed on the licensee by the Act, or these regulations or by the relevant licence.

5. **Short**

The regulations may be cited as the Independent Broadcasting Authority Television Broadcasting Service Records Regulations, 1998.

INDEPENDENT BROADCASTING AUTHORITY ACT 153 OF 1993

INDEPENDENT BROADCASTING AUTHORITY (TEMPORARY COMMUNITY LICENCES: CRITERIA TO MEASURE COMMUNITY SUPPORT REGULATIONS, 1994.

REGULATIONS RELATING TO THE CRITERIA ACCORDING TO WHICH THE SUPPORT FOR AN APPLICANT FOR A TEMPORARY COMMUNITY BROADCASTING LICENCE BY THE RELEVANT COMMUNITY OR BY THOSE ASSOCIATED WITH OR PROMOTING THE INTERESTS OF SUCH COMMUNITY SHALL BE MEASURED

Published under Government Notice R1674 in *Government Gazette* 15999 of 30 September 1994 and amended by:

GN R485

GG 23332

16/4/2002

The Independent Broadcasting Authority has, under [section 78](#) (1), read with [section 47](#) (1) (c), of the Independent Broadcasting Authority Act, 1993 (Act No. 153 of 1993), made the regulations in the Schedule.

- [1. Definitions](#)
- [2. Criteria for measuring support of community or of its associates or promoters](#)
- [3. Methods of providing evidence](#)
- [4. Survey](#)
- [5. Short title](#)

[LIST OF SIGNATURES](#)

SCHEDULE

Definitions

1. In these regulations, unless the context otherwise indicates -
 - (i) "applicant" means an applicant for a temporary community broadcasting licence contemplated in [section 47A](#) of the Act;
 - (ii) "the Act" means the Independent Broadcasting Authority Act, 1993 (Act No. 153 of 1993),

and any word or expression to which a meaning has been assigned in the Act shall bear such meaning.

Criteria for measuring support of community or of its associates or promoters

2. (1) For the purposes of enabling the Authority to take in account whether, as regards the provision of the proposed broadcasting service, an applicant for a temporary community broadcasting licence has the support of the community or of those associated with or promoting the interests of the

community as contemplated in [section 47](#) (1) (c) of the Act, such support shall be measured according to the criteria prescribed in this regulation.

- (2) The criterion according to which -
 - (a) the support of the community shall be measured, shall be the extent to which the proposed broadcasting service will be listened to or viewed, as the case may be, by the community;
 - (b) the support of those associated with or promoting the interests of the community shall be measured, shall be the extent to which the proposed broadcasting service will be provided with funds or other resources sufficient to ensure its viability.
- (3) Evidence of the relevant support and of its extent as measured according to a criterion mentioned in subregulation (2) shall be provided in the manner provided in regulation 3 or 4.

Methods of providing evidence

3. (1) Subject to the provisions of subregulation (3), an applicant may provide evidence of whether, as regards the provision of the proposed broadcasting service, the applicant has the support of the community or of those associated with or promoting the interests of the community, as the case may be, by providing at least two of the following four categories of documents:
 - (a) A list, substantially in the form annexed, containing -
 - (i) an appropriate declaration that, as regards the provision of the proposed broadcasting service, the applicant has the support of each signatory;
 - (ii) the signatures of members of the community;
 - (iii) the name and address of each signatory; and
 - (iv) the personal characteristics of each signatory which qualify him or her as a member of the community, which may include gender, age, religion, language and any other relevant characteristic;
 - (b) correspondence, minutes of meetings, lists of *bona fide* members of voluntary associations and any other documents that show whether, as regards the provision of the proposed broadcasting service, the applicant has the support of the community;
 - (c) letters or other documents that show -
 - (i) the amount of funding which the proposed broadcasting service is likely to receive from each different source, whether donations,

grants, sponsorships or advertising or membership fees, during each month of the period for which the licence may be granted;

(ii) the extent of resources other than funding which the proposed broadcasting service is likely to receive and the sources thereof; or

(d) any alternative documentary or other evidence that shows whether, as regards the provision of the proposed broadcasting service, the applicant has the support of the community or of those associated with or promoting the interests of the community, as the case may be.

Editor's Note: See also [Schedule 1](#) of GN R485/2002

(2) The Authority may require the production of proof on affidavit of anything contained in any document furnished as provided in subregulation (1).

(3) The Authority may, notwithstanding that an applicant may have provided any documents contemplated in subregulation (1), require the applicant to provide results of a survey conducted as contemplated in regulation 4 -

(a) if competitive licence applications have been made as contemplated in regulation 8 (2) of the Independent Broadcasting Authority (Temporary Community Broadcasting Licences) Regulations, 1994; or

(b) if the Authority has reason to believe that such documentary or other evidence that has been provided is not sufficient to show whether, as regards the provision of the proposed broadcasting service, the applicant has the support of the community or of those associated with or promoting the interests of the community, as the case may be.

Survey

4. (1) An applicant may, in stead of providing evidence as contemplated in regulation 3, provide results of a survey which shows whether, as regards the provision of the proposed broadcasting service, the applicant has the support of the community or of those associated with or promoting the interests of the community.

(2) Such a survey shall be conducted -

(a) by a person or body who is affiliated to -

(i) the Association of Marketing Research Organisations; or

(ii) any other association of persons or bodies who conduct market research or opinion polls and which has a code of conduct or ethics that is acceptable to the Authority and that the members of such association are obliged to observe; or

(b) by any other person or body who is acceptable to the Authority -

(i) on the basis of the qualifications or experience or professional membership of the persons who conducted the survey; or

- (ii) for any other reason.
- (3) Where the survey is conducted to show the extent to which the proposed broadcasting service will be listened to or viewed, as contemplated in regulation 2 (2) (a), such survey shall -
 - (a) relate to the particular community to be served by the proposed broadcasting service;
 - (b) ascertain the personal characteristics of each respondent which qualify him or her as a member of the community, which may include gender, age, religion, language and any other relevant characteristic;
 - (c) in the case of an application for a licence in respect of -
 - (i) a temporary community sound broadcasting service, ascertain -
 - (aa) whether the respondent possesses or has access to a sound radio set; and
 - (bb) if so, whether it is an FM, medium wave AM or short wave AM set;
 - (ii) a temporary community television broadcasting service, ascertain whether the respondent possesses or has access to a television set;
 - (d) ascertain the nature of the broadcasting programmes which each respondent habitually listens to or views and the days and times when he or she habitually listens or views, as the case may be;
 - (e) ascertain the extent of interest of each respondent in receiving the proposed broadcasting service, after he or she was informed about the nature of the programmes to be carried by the proposed broadcasting service and of the days and times when they will be broadcast;
 - (f) establish such further information as may be relevant by reason of the nature of the proposed broadcasting service or of the relevant community.
- (4) Where the survey is conducted to show the extent to which the proposed broadcasting service will be provided with funds or other resources sufficient to ensure its viability, as contemplated in regulation 2 (2) (b), such survey -
 - (a) shall ascertain the amount of funding which the proposed broadcasting service is likely to receive from each different source, whether donations, grants, sponsorships or advertising or membership fees, during each month of the period for which the licence may be granted;

- (b) shall ascertain the extent of resources other than funding which the proposed broadcasting service is likely to receive and the sources thereof;
 - (c) in the case of a proposed broadcasting service that will broadcast advertisements, may, where the community concerned is geographically founded, relate to advertisers whose place of business is situated outside the geographical area concerned;
 - (d) shall provide such further evidence as may reasonably be required by reason of the nature of the proposed broadcasting service or of the methods by which such service will be funded.
- (5) The survey shall be conducted in accordance with the code of conduct for marketing research of the Southern African Marketing Research Association.
- (6) The applicant shall provide, together with the survey results -
- (a) the name, address, qualifications and experience and professional membership, if any, of the person or body who or which conducted the survey;
 - (b) the period during which the survey was conducted;
 - (c) how the data were collected;
 - (d) if any respondent was interviewed by telephone or any other method than in person, the reason that such other interviewing method was utilised;
 - (e) times of the day when the survey was conducted;
 - (f) the characteristics and qualifications of the field workers used in conducting the survey;
 - (g) the instruments used in the survey;
 - (h) problems experienced during the conducting of the survey and how they were resolved, with particular reference to non-response;
 - (i) a summary of the results and as many detailed tables as possible;
 - (j) a distribution of the sample errors for all the variables reported in the results;
 - (k) a questionnaire containing the questions reported in the results and, if the survey was carried out in more than one language, the questionnaire used in all the languages;
 - (l) the sampling methods employed;

- (m) the geographical areas covered by the survey; and
- (n) any other information relating to the carrying out of the survey as may be relevant.

Short title

5. These regulations may be cited as the **Independent Broadcasting Authority (Temporary Community Licences: Criteria to Measure Community Support Regulations, 1994.**

LIST OF SIGNATURES

We, the undersigned, hereby declare that (the applicant) has our support as regards the provision of a proposed

.....

(nature of service) broadcasting service in..... (area)

Full names	Physical address of residence or workplace of signatory	Personal characteristics of signatory which qualify him or her as member of relevant community (may include gender, age, religion, language or any other relevant characteristic)
1.
2.
3.
4.
5.
6.

INDEPENDENT BROADCASTING AUTHORITY ACT 153 OF 1993

INDEPENDENT BROADCASTING AUTHORITY (TEMPORARY BROADCASTING SIGNAL DISTRIBUTION LICENCES) REGULATIONS, 1994.

REGULATIONS RELATING TO PROCEDURES CONCERNING APPLICATIONS FOR AND THE GRANTING OF TEMPORARY BROADCASTING SIGNAL DISTRIBUTION LICENCES FOR THE PURPOSES OF THE PROVISION OF BROADCASTING SIGNAL DISTRIBUTION FOR HOLDERS OF TEMPORARY COMMUNITY BROADCASTING LICENCES

Published under Government Notice R1676 in *Government Gazette* 15999 of 30 September 1994.

The Independent Broadcasting Authority has, under [section 78](#) (1), read with [section 34](#), of the Independent Broadcasting Authority Act, 1993 (Act No. 153 of 1993), made the regulations in the Schedule.

1. [Definitions](#)
2. [Application for a temporary distribution licence](#)
3. [Decision on application](#)
4. [Conditions](#)
5. [Term of temporary distribution licences](#)
6. [Change of transmitters or transmission characteristics](#)
7. [Records, public inspection and copies](#)
8. [Short title](#)

FORM OF APPLICATION FOR A TEMPORARY DISTRIBUTION LICENCE

SCHEDULE

Definitions

1. In these regulations, unless the context otherwise indicates -
 - (i) "temporary community broadcasting licence" means a temporary community broadcasting licence contemplated in [section 47A](#) of the Act;
 - (ii) "temporary distribution licence" means a temporary broadcasting signal distribution licence issued to the holder of a temporary community broadcasting licence for the purpose of the provision by such holder of broadcasting signal distribution for himself or herself exclusively;
 - (iii) "the Act" means the Independent Broadcasting Authority Act, 1993 (Act No. 153 of 1993),

and any word or expression to which a meaning has been assigned in the Act shall bear such meaning.

Application for a temporary distribution licence

2. (1) The Authority shall not consider an application for the grant of a temporary distribution licence to any person other than the holder or prospective holder of a temporary community broadcasting licence.
- (2) An application for a temporary distribution licence shall -
 - (a) be substantially in the form annexed;
 - (b) be properly and legibly completed in any official language; and
 - (c) be accompanied by the other information required in the form.
- (3) An applicant may be required in writing by the Authority to provide the Authority, within the period specified by it, with such further information as may be reasonably necessary with a view to enabling it to properly consider the application.
- (4) (a) The Authority shall provide the Broadcasting Technical Committee established in terms of [section 21](#) (1) (a) of the Act with a copy of the application and of such further information (if any).
- (b) The Authority shall provide the applicant with a copy of any written report of that Committee in relation to the application.

Decision on application

3. (1) The Authority, after having duly considered the relevant application for a temporary distribution licence, any further information provided, any report of the Broadcasting Technical Committee and any other evidence tendered to the Authority, and with due regard to the objects and principles as enunciated in [section 2](#) of the Act, shall
 - (a) subject to the provisions of paragraph (b), grant the application;
 - (b) refuse the application if the application for a temporary community broadcasting licence in respect of the broadcasting service to which such temporary distribution licence relates has been refused.
- (2) The Authority shall provide written reasons for its ruling.
- (3) Upon having reached a decision on any application, the Authority shall make known the outcome thereof by written notice sent by registered post or delivered to the applicant.

Conditions

4. (1) Subject to the provisions of the Act and these regulations, the Authority, in granting any temporary distribution licence pursuant to a ruling in terms of regulation 3 (1) -

- (a) shall stipulate the nature, number and transmission characteristics of the transmitters approved by the Authority for use in providing the licensed broadcasting signal distribution;
 - (b) may impose such other terms, conditions and obligations appropriate to such licence and consistent with the objects and principles as enunciated in [section 2](#) of the Act, as it deems fit.
- (2) The Authority may -
- (a) grant the application on condition that, before the licence is issued, the applicant shall comply with any stipulation, term, condition or obligation imposed in terms of subregulation (1) which is specified by the Authority and made known in writing to the applicant;
 - (b) issue the licence subject to any stated stipulation, term, condition or obligation so imposed in terms of which the licence holder shall comply therewith within a stated period.
- (3) Any stipulation, term, condition or obligation imposed in terms of subregulation (1), other than one made known as provided in subregulation (2) (a), shall be specified in the temporary distribution licence to which it pertains.

Term of temporary distribution licences

5. (1) The term of validity of a temporary distribution licence shall be concurrent with the term of validity of the relevant temporary community broadcasting licence issued to the holder concerned.
- (2) The term of validity of a temporary distribution licence shall not be extended, but a holder of such a licence may apply for a new temporary distribution licence at any time before or after his or her existing licence has ceased to be valid as provided in subregulation (1).

Change of transmitters or transmission characteristics

6. The holder of a temporary distribution licence shall make written application to the Authority for any
- (a) change of his or her transmitters;
 - (b) addition to or reduction of the number of his or her transmitters; or
 - (c) change in the transmission characteristics of any of his or her transmitters.

Records, public inspection and copies

7. (1) The Authority shall keep a record of all applications and other documentation received by it and of all findings and rulings in terms of these regulations.
- (2) Such records shall be open to public inspection by interested persons during the normal office hours of the Authority.

- (3) The Authority shall at the request of any interested person and on payment of such fee as may have been prescribed, provide him or her with a copy of or extract from any such record.

Short title

8. These regulations may be cited as the **Independent Broadcasting Authority (Temporary Broadcasting Signal Distribution Licences) Regulations, 1994.**

FORM OF APPLICATION FOR A TEMPORARY DISTRIBUTION LICENCE

INDEPENDENT BROADCASTING AUTHORITY

**APPLICATION FOR TEMPORARY
BROADCASTING SIGNAL DISTRIBUTION LICENCE**

TO: INDEPENDENT BROADCASTING AUTHORITY
IBA House
26 Baker Street
Rosebank
2196
Private Bag 31

By hand delivery/Registered post

Parklands
2121

Note:

- (a) *Please refer to the Independent Broadcasting Authority Act, 1993 (Act No. 153 of 1993), and regulations and any guide issued by the Authority for the assistance of applicants for temporary community broadcasting licences.*
- (b) *Any information requested in this form may, if lengthy, be contained in an appendix.*
- (c) *Where any question in this form does not apply, the words "not applicable " must be inserted in full.*

1. PARTICULARS OF APPLICANT (Person or body applying for licence)	
1.1 Full name of applicant:	Send notices and communications to the following individual at the address below
	Name:
Street address	Street address
Postal address with postcode	Postal address with postcode
Telephone No. (including area code)	Telephone No. (including area code)
Fax No.	Fax No.

2. THE PROPOSED LICENCE AREA

2.1 Describe the geographical limits of the area

.....
.....

3. TECHNICAL MATTERS - Give particulars where known

- 3.1 Give particulars, with make and model names, of each proposed transmitter item of equipment to be used in broadcasting.....
.....
- 3.2 Preferred frequency band on which it is intended to broadcast
.....
- 3.3 Proposed effective radiated power (ERP)
.....
- 3.4 Proposed power output
.....
- 3.5 Proposed antenna polarisation
.....
- 3.6 Proposed horizontal broadcasting pattern
.....
- 3.7 Proposed type of transmission apparatus
.....
- 3.8 Physical address or deeds registry description of location of proposed transmitter
.....
.....
- 3.9 Geographical co-ordinates or map reference of transmitter's position
.....
- 3.10 Site height above sea level
.....
- 3.11 Effective antenna height above site
.....
- 3.12 Proposed service area
.....
- 3.13 Give full particulars of the precautions to be taken against interference with other broadcasting services
.....
.....
- 3.14 Give full particulars of the person/s who will be in charge of the power, transmission and technical matters
.....
.....
- 3.15 Attach a pattern of the radiation if available.

4. COMPLIANCE WITH LAWS

4.1 Confirm whether consents, permissions or other authority is required in terms of laws relating to the environment, town planning, occupational health and safety, or copyright

.....
.....

4.2 If so, whether all such consents, permissions or other authority are being or have been obtained.....

.....

The applicant acknowledges that statements in this form and accompanying documents will be relied upon by the Authority, and confirms that to the knowledge and belief of the applicant all such statements are true and correct.

Signed:

Date Signature.....

Full names of signatory

.....

For and on behalf of

(Name of applicant)

Note: *Attach copy of resolution by applicant authorising signatory to sign this application on behalf of the applicant.*

Witness:.....

Name of witness

INDEPENDENT BROADCASTING AUTHORITY ACT 153 OF 1993

INDEPENDENT BROADCASTING AUTHORITY (APPLICATION PROCEDURES FOR BROADCASTING SIGNAL DISTRIBUTION LICENCES) REGULATIONS, 1995

REGULATIONS REGARDING PROCEDURES IN RELATION TO APPLICATIONS FOR THE GRANTING, ISSUING, RENEWAL, AMENDMENT AND TRANSFER OF BROADCASTING SIGNAL DISTRIBUTION LICENCES

Published under Government Notice R1315 in *Government Gazette* 16628 of 25 August 1995 and amended by:

GN R1578

GG 18463

21/11/97

The Independent Broadcasting Authority has, under [section 78\(1\)](#), read with [section 34](#), of the Independent Broadcasting Authority Act, 1993 (Act No. 153 of 1993), made the regulations in the Schedule.

1. Definitions

CHAPTER I - GRANTING OF LICENCE

2. Applications
3. Publication of application and representations
4. Investigation and report by Authority
5. Hearing
6. Decision on application
7. Decision on application
8. Issue of licence

CHAPTER II - RENEWAL, AMENDMENT AND TRANSFER OF LICENCE

9. Licence to accompany application for renewal, amendment or transfer
10. Renewal of licence
11. Change of transmitters
12. Amendment of licence, including change of transmitters
13. Transfer of licence
14. Notice inviting applications
15. Authority to investigate application to renew, amend or transfer
16. Discretionary bearing regarding renewal, amendment or transfer
17. Decision on application to renew, amend or transfer
18. Endorsement of renewal, amendment or transfer on licence
19. Short title

SCHEDULES

Definitions

1. In these regulations, unless the context otherwise indicates:
 - (i) **"licence"** means a broadcasting signal distribution licence;
 - (ii) **"the Act"** means the Independent Broadcasting Authority Act, 1993 (Act No. 153 of 1993),

- (iii) "**category 1**" means a licence to an applicant to provide broadcasting signal distribution as a common carrier for broadcasting licensees, on their request on an equitable, reasonable, non-preferential and non-discriminatory basis, as contemplated in subparagraph (i) of paragraph (a) of [section 33](#)(1), read with [section 37](#)(a), of the Act,
- (iv) "**category 2**" means a licence to an applicant to provide broadcasting signal distribution for broadcasting licensees, on a selective and preferential basis, as contemplated in subparagraph (ii) of paragraph (a) of [section 33](#)(1), read with [section 37](#)(a), of the Act;
- (v) "**category 3**" means a licence to an applicant to provide broadcasting signal distribution wholly or partly for himself or herself as a broadcasting licensee and without providing the same for any other broadcasting licensee, as contemplated in subparagraph (iii) of paragraph (a) of [section 33](#)(1) read with [section 37](#)(a) of the Act

and any word or expression to which a meaning has been assigned in the Act shall bear such meaning.

CHAPTER I

GRANTING OF LICENCE

Applications

- 2. (1) Every application for a licence shall: -
 - (a) be substantially in the form contained in:
 - (i) Schedule 2 in respect of a category 1 application;
 - (ii) Schedule 3 in respect of a category 2 application;
 - (iii) Schedule 4 in respect of a category 3 application;
 - (b) be properly and legibly completed in any official language;
 - (c) be accompanied by the other documents required in the form and
 - (d) be lodged with the registrar of the Authority together with eight copies of the application and all accompanying documentation.
- (2) An applicant for a licence shall in such application -
 - (a) state if the applicant is a person who, immediately prior to the date of commencement of the Act, was engaged in broadcasting signal distribution, as contemplated in [section 33](#) (2) of the Act; and
 - (b) furnish particulars of the nature, number and transmission characteristics of the transmitters to be used by the applicant in providing the proposed broadcasting signal distribution; and

- (c) furnish such other information required in the application with sufficient particularity to enable the Authority to properly consider the application.
- (3) Notwithstanding the preceding provisions of this regulation, an applicant may be required in writing by the Authority within 21 days of receipt of the application, to provide the Authority with such further information as may be reasonably necessary with a view to enabling it to properly consider the application. The failure on the part of the Authority to request any such further information within the aforesaid time period, is in no way to be construed as an acknowledgement on the part of the Authority that the application is in order. At all times the Authority has the discretion to reject, if necessary, the application with or without having requested any further information

Publication of application and representations

3. (1) Simultaneously with the lodging of the application with the Authority under (2) (1)(d) the applicant for either a category 1 or 2 licence shall forward to the Government Printer for publication in the Gazette within 14 days of lodgement, a notice substantially in the form of Schedule 1:
- (i) containing particulars of the applicant and the category of the application;
 - (ii) stating whether the applicant is a person who, immediately prior to the date of commencement of the Act, was engaged in signal distribution as referred to in regulation 2(2)(a); and
 - (iii) inviting broadcasting licensees and other interested persons to lodge with the Authority, within 14 days as from the date of such notice, their written representations in relation to -
 - (a) the transmitters and transmission characteristics to be used by the applicant;
 - (b) the extent to which the applicant intends to make his or her broadcasting signal distribution facilities available to broadcasting licensees;
 - (c) the application in general.
- [Subreg. (1) amended by GN R1578/97]
- (1A) On receipt of an application for a category 3 licence by a licensed community broadcaster the Authority shall gazette a notice substantially in the form of schedule 1.
- [Subreg. (1A) inserted by GN R1578/97]
- (2) (a) Any person who lodges representations pursuant to a notice in terms of subregulation (1) shall at the time of lodgement provide proof to the satisfaction of the Authority that he or she has sent by registered post or delivered a copy of such representations to the applicant concerned.
- (b) Any person who has so lodged representations may be required in writing by the Authority to provide it, within the period specified by it, with

such further information as it considers necessary,

- (3) The applicant shall submit his or her written response (if any) to any representations lodged in terms of regulation 3(2) to the Authority within one month of the date of the notice contemplated in sub-regulation 3 (1), and shall at the same time provide proof to the satisfaction of the Authority that he or she has sent by registered post or delivered a copy of such written response to the person who made such representations.
- (4) The Authority may, upon good cause shown, allow an interested person to lodge written representations in relation to the application with the Authority after the expiry of the time period referred to in regulation 3(1) provided that on no account shall any party be allowed to submit such representations less than 14 days prior to the bearing to be held in terms of regulation 5 hereof

Investigation and report by Authority

4. (1) The Authority shall investigate:
 - (a) the technical matters relevant to the application with a view to a determination of the technical eligibility of the applicant;
 - (b) the transmitters and transmission characteristics to be used by the applicant.
- (2) For the purposes of such investigation the Authority may cause an authorised person to inspect, as contemplated in [sections 30\(d\)](#) and [73\(d\)](#) of the Act, the plant, installations, transmitters, apparatus and other equipment to be used by the applicant for the purposes of or in connection with broadcasting signal distribution.
- (3) The Authority shall compile a written report containing its findings in respect of such investigation and its recommendations with regard to the application.
- (4) The Authority shall provide the applicant and each party who made representations in terms of regulation 3(2) with a copy of such report.

Hearing

5. (1) In respect of every application for a licence under category 1 and category 2 received by the Authority, it shall hold a hearing as provided for in this regulation.
- (2) Such hearing shall be held as soon as may be reasonably practicable, due regard being had to the provisions of regulations 3 and 4, and at such date, time and place as shall be determined by the Authority and made known by written notice sent by registered post or delivered to the applicant and each party who made representations in terms of regulation 3 (i) (iii).
- (3) At the hearing -
 - (a) the applicant and each party who made representations in terms of regulation 3 (1) (iii) shall be afforded an opportunity to be heard;

- (b) the parties referred to in sub-paragraph (a) may be assisted and represented by any person of their choice.
- (4) Hearings held in terms of this regulation shall be open to the public.
- (5) The Authority may, in relation to evidence or other material presented at the hearing or submitted with the application to the Authority under regulation (2) hereof if in the opinion of the Authority such evidence or material is of a confidential matter, order that it not be published or that its disclosure be restricted as directed by the Authority.
- (6) The Authority may at the hearing require the applicant or any party who made representations to provide such farther evidence as it considers necessary in support of any submission made by him or her in relation to the application, including -
 - (a) affidavits or other documents;
 - (b) evidence to be given by witnesses.
- (7) The Authority may postpone the hearing -
 - (a) to afford any party an opportunity to respond to any matter of which the Authority may of its own accord have taken cognisance;
 - (b) to afford any party an opportunity to respond to any further information provided in terms of these regulations; or
 - (c) if in its opinion a postponement is necessary for the proper consideration of the application.
- (8) If the Authority postpones the hearing without a day having been determined for the holding of the adjourned hearing the Authority shall by written notice sent by registered post or delivered to each of the parties make known the date determined by the Authority for the reconvening of the adjourned hearing.
- (9) The Authority may at its discretion hold a hearing in respect of applications under category 3, in which event the provisions of this regulation shall *mutatis mutandis* apply.

Decision on application

- 6. (1) The Authority, at or after the hearing, and after having duly considered the relevant application, the representations (if any) made in accordance with the provisions of regulation 3 (1), the applicant's written response thereto (if any), any written or oral report by the Authority, any further information provided in terms of these regulations and any other evidence tendered to the Authority, and with due regard to the objects and principles as enunciated in [section 2](#) of the Act and subject to the provisions of [section 33](#) of the Act, shall -
 - (a) grant or refuse the application which decision shall be conveyed to the applicant within 8 weeks of date of the hearing held under regulation 5;

- (b) where it grants the application, approve the nature, number and transmission characteristics of the transmitters to be used by the applicant in providing the licensed broadcasting signal distribution.
- (2) The Authority shall provide written reasons for its decision.
- (3) Upon having reached a decision on any application, the Authority shall make known the outcome thereof by written notice sent by registered post or delivered to the applicant and to each party who made representations in terms of regulation 3 (1).

Conditions

- 7. (1) Subject to the provisions of the Act and these regulations, the Authority, in granting any application for a licence pursuant to a ruling in terms of regulation 6(1) -
 - (a) shall stipulate the nature, number and transmission characteristics of the transmitters approved by the Authority as contemplated in regulation 6(1)(b);
 - (b) may impose such other terms, conditions and obligations appropriate to such licence and consistent with the objects and principles as enunciated in [section 2](#) of the Act, as it deems fit.
- (2) The Authority may -
 - (a) grant the application on condition that, before the licence is issued, the applicant shall comply with any stipulation, term, condition or obligation imposed in terms of sub-regulation (1) which is specified by the Authority and made known in writing to the applicant;
 - (b) issue the licence subject to any stated stipulation, term, condition or obligation so imposed in terms of which the licence holder shall comply therewith within a stated period.
- (3) Any stipulation, term, condition or obligation imposed in terms of sub-regulation (1), other than one made known as provided in sub-regulation (2)(a), shall be specified in the licence to which it pertains.
- (4) This regulation shall not be construed as preventing the Authority from making any other regulations in relation to any technical matter necessary or expedient for the regulation of the possession and use of transmitters, apparatus and other equipment, including any standards, specifications and prohibitions relevant thereto.

Issue of licence

- 8. (1) The Authority shall, after it has granted an application for a licence and after being satisfied that all conditions requiring compliance before the licence is issued as contemplated in regulation 7(2)(a), if any, have been fulfilled, issue the licence to the applicant concerned.

CHAPTER II

RENEWAL, AMENDMENT AND TRANSFER OF LICENCE

Licence to accompany application for renewal, amendment or transfer

9. An applicant for the renewal, amendment or transfer of a licence in terms of this Chapter shall lodge, together with the application -
- (a) the licence concerned; or
 - (b) a certified copy thereof issued to serve as an original where the original licence has been lost or destroyed or become unserviceable, as contemplated in the Independent Broadcasting Authority (Lodgement of Documents and Administrative Procedures) Regulations, 1995.

Renewal of licence

10. (1) An application for the renewal of a licence may be made to the Authority by the broadcasting signal distribution licensee not earlier than six months, and not later than three months, before the date on which it expires by virtue of the provisions of [section 38](#) of the Act.
- (2) An application for the renewal of a licence shall be substantially in the form of Schedule 5, and the provisions of regulation 2 (1) (b), (c) and (d), (2) (c) and 2 (3) shall *mutatismutandis* apply in relation to every such application.
- (3) The Authority may in its discretion grant permission to an applicant for the renewal of a licence to continue to provide broadcasting signal distribution in accordance with such licence after the expiration of the term of the licence until such time as the authority has made its decision regarding the application for renewal of the licence.

Change of transmitters

11. (1) Should the licensee wish to change any of the transmitters approved under regulation 7 (1) (b) or add to or reduce the number of transmitters so approved, or effect any change in any transmission characteristics of any of the transmitters so approved, the licensee must request approval for such change in writing from the Authority, and must supply such particulars and motivation for the change as the Authority may require.
- (2) Upon receipt of the written request for approval of the change, the Authority shall:
- (i) approve such change in writing; or
 - (ii) require the licensee to apply for an amendment of the licence in terms of the provisions of regulation 12 hereunder.
- (3) Upon the approval of the change as contemplated in sub-regulation 2(i), the licence shall be deemed to be amended to the extent stated by the Authority.

Amendment of licence, including change of transmitters

12. (1) An application for the amendment of a licence shall be substantially in the form of Schedule 6, and the provisions of regulation 2 (1) (b), (c) and (d), (2) (c) and 2 (3) shall *mutatis mutandis* apply in relation to every such application.
- (2) The applicant shall in such application -
- (a) where the proposed amendment relates to transmitters or transmission characteristics -
 - (i) state whether such amendment relates to -
 - (aa) a change of his or her transmitters;
 - (bb) an addition to or reduction of the number of his or her transmitters;or
 - (cc) a change in the transmission characteristics of any of his or her transmitters; and
 - (ii) provide particulars of the change, addition or reduction in question;
 - (b) where the proposed amendment relates to any other provision, stipulation, term, condition or obligation imposed in such licence, provide particulars of the amendment in question.
- (3) (a) Subject to the provisions of the Act and these regulations, the Authority, in granting any such application for the amendment of a licence -
- (i) shall, where the amendment relates to transmitters or transmission characteristics, stipulate the relevant change, addition or reduction approved by the Authority pursuant to such ruling;
 - (ii) may impose such other terms, conditions and obligations pursuant to such amendment and consistent with the objects and principles as enunciated in [section 2](#) of the Act as it deems fit.
- (b) The provisions of Regulation 7 (2) (3) and (4) shall *mutatis mutandis* apply in relation to any: such stipulation, term, condition or obligation.

Transfer of licence

13. (1) An application for the transfer of a licence shall be substantially in the form of Schedule 7, and the provisions of regulation 2 (1) (b) (c), 2 (c) and 2 (3) shall *mutatis mutandis* apply in relation to every such application.
- (2) An application for the transfer of a licence shall not be considered by the Authority unless the broadcasting signal distribution service to which the licence

relates is proposed to be transferred together with such licence to the same transferee, as provided in [section 74](#)(1)(a) of the Act.

Notice inviting applications

14. (1) Whenever the Authority considers renewing, amending or transferring a licence in terms of this Chapter, the Authority shall within 14 days of receipt of the application concerned cause to be published in the Gazette a notice of the proposed renewal, amendment or transfer, as the case may be, and inviting interested persons to lodge with the Authority, within 14 days as from the date of such notice, their written representations in relation to the application.
- (2) When representations are lodged with the Authority in accordance with the requirements of the notice referred to in sub-regulation (1), the provisions of regulations 3 (1) to (4) shall *mutatis mutandis* apply.

Authority to investigate application to renew, amend or transfer

15. The Authority shall investigate any application for the renewal, amendment or transfer of a licence, and the provisions of regulation 4 shall *mutatis mutandis* apply in relation to such application.

Discretionary bearing regarding renewal, amendment or transfer

16. The Authority may in its discretion hold a hearing with a view to making a decision regarding the renewal, amendment or transfer of a licence, in which event the provisions of regulation 5 shall *mutatis mutandis* apply.

Decision on application to renew, amend or transfer

17. The Authority shall grant or refuse an application for the renewal, amendment or transfer of a licence *mutatis mutandis* as contemplated in regulation 6.
 - (1) In granting an application for the renewal, amendment or transfer of a licence the Authority may impose such other stipulations, terms, conditions and obligations consistent with the objects and principles as enunciated in [section 2](#) of the Act as it deems fit.
 - (2) The provisions of regulation 7 (2), (3) and (4) shall *mutatis mutandis* apply in relation to any such stipulation, term, condition or obligation.

Endorsement of renewal, amendment or transfer on licence

18. (1) The Authority shall endorse a renewal, amendment or transfer -
 - (a) on the blank reverse of a page of the licence concerned; and
 - (b) on the blank reverse of a page of the duplicate of that licence kept in the register of licences referred to in [section 70](#)(1) of the Act.

Short title

19. These regulations may be cited as the Independent Broadcasting Authority (Application Procedures for Broadcasting Signal Distribution Licences) Regulations, 1995.

SCHEDULES

- Schedule 1 NOTICE OF LODGEMENT OF APPLICATION FOR SIGNAL DISTRIBUTION LICENCE
- Schedule 2 FORM OF APPLICATION FOR A BROADCASTING SIGNAL DISTRIBUTION LICENCE
- Schedule 3 APPLICATION FOR BROADCASTING SIGNAL DISTRIBUTION LICENCE CATEGORY 2 - SELECTIVE AND PREFERENTIAL
- Schedule 4 APPLICATION FOR BROADCASTING SIGNAL DISTRIBUTION LICENCE CATEGORY 3 - INDIVIDUAL
- Schedule 5 APPLICATION FOR RENEWAL OF BROADCASTING SIGNAL DISTRIBUTION LICENCE
- Schedule 6 APPLICATION FOR AMENDMENT OF BROADCASTING SIGNAL DISTRIBUTION LICENCE
- Schedule 7 APPLICATION FOR TRANSFER OF BROADCASTING SIGNAL DISTRIBUTION LICENCE

INDEPENDENT BROADCASTING AUTHORITY ACT 153 OF 1993

REGULATIONS REGARDING THE POWERS OF THE BROADCASTING MONITORING AND COMPLAINTS COMMITTEE IN RELATION TO THE SUMMONING AND EXAMINING OF WITNESSES, THE ADMINISTERING OF THE OATH OR AFFIRMATION, RECALCITRANT WITNESSES AND THE PRODUCING OF BOOKS, DOCUMENTS, OBJECTS AND MATERIAL

Published under Government Notice R1604 in *Government Gazette* 16758 of 13 October 1995.

The Independent Broadcasting Authority has, under [section 78](#) (1), read with [section 63](#) (10), of the Independent Broadcasting Authority Act, 1993 (Act No. 153 of 1993), made the regulations in the Schedule.

SCHEDULE

- [1.](#) [Definitions](#)
- [2.](#)
- [3.](#)
- [4.](#)
- [5.](#)
- [6.](#)
- [7.](#)
- [8.](#)

Definitions

1. In these regulations unless the context otherwise indicates -

"**Committee**" means the Broadcasting Monitoring and Complaints Committee;

"**Chairperson**" means the Chairperson of the Committee;

"**the Act**" means the Independent Broadcasting Authority Act 1993 (Act No. 153 of 1993);

"**member**" means a member of the Committee;

"**the Authority**" means the Independent Broadcasting Authority as established by [section 3](#) of the Act;

"**witness**" means any person other than the complainant: or respondent who has been subpoenaed to give evidence;

2. The Committee may for the purposes of any inquiry held under [section 62](#) of the Act or the adjudication of any complaint in terms of [section 63](#) thereof -
 - (a) through the Chairperson subpoena any person, by means of a notice in writing delivered by hand to the said person personally, to appear before it in relation to such inquiry or adjudication of complaint;

- (b) require such person at a time and place specified in the subpoena to give evidence under oath or affirmation;
 - (c) further require such person to produce, in such manner as may be specified in the subpoena, all books, documents, objects and materials in the possession or custody or under the control of such person as may be specified in the subpoena and which may be necessary to the inquiry or adjudication of the complaint in question.
- 3. The Chairperson or a member generally or specifically authorised thereto by the Chairperson must administer an oath or affirmation to every witness appearing before the Committee.
- 4. Any person appointed or designated to take down or record the proceedings of the Committee in shorthand or by mechanical means or to transcribe such proceedings which have been taken down or recorded shall at the outset take an oath or affirmation in a form designated by the Chairperson or member authorised thereto.
- 5. Any witness appearing before the Committee may be questioned through the Chairperson while under oath or affirmation in relation to any matter which may arise in connection with the inquiry or adjudication of complaint in question.
- 6. Such witness may only be cross-examined if the Chairperson deems it necessary and in the interest of the functions of the Committee. A witness appearing before the Committee may have a legal representative or other adviser present.
- 7. A witness appearing before the Committee in terms of [section 2](#) hereof who is not in the Public Service is entitled to receive as witness fees an amount equal to the amount which he or she would have received as, witness fees had he or she been subpoenaed as a witness in criminal proceedings in the Supreme Court.
- 8. Any person who -
 - (a) has been subpoenaed in terms of [section 2](#) hereof to give evidence or produce any book, document, object or material who, without sufficient cause, fails to attend at the time and place specified in the subpoena, or to remain in attendance until the conclusion of the inquiry or adjudication of complaint in question until he or she is excused by the Chairperson from further attendance, or having attended refuses to give evidence after he or she has been required by the Chairperson to do so or fails to answer fully and satisfactorily any question lawfully put to him or her, or fails to produce any book, document, object or material in his or her possession or custody or under his or her control which he or she has been required to produce;
 - (b) makes false statement before the Committee on any matter, knowing such statement to be false or not knowing or believing it to be true;
 - (c) wilfully interrupts the proceedings at any such inquiry or adjudication of complaint or wilfully hinders or obstructs the Committee or any member thereof in the performance of its or his or her functions at the inquiry or adjudication of the complaint;
 - (d) shall be guilty of an offence and liable on conviction to a fine not exceeding R10 000.

INDEPENDENT BROADCASTING AUTHORITY ACT 153 OF 1993

INDEPENDENT BROADCASTING AUTHORITY PRIVATE SOUND BROADCASTING SERVICE LICENCE FEES REGULATIONS 1997.

REGULATIONS RELATING TO THE PAYMENT TO THE AUTHORITY OF CHARGES AND FEES IN RESPECT OF PRIVATE SOUND BROADCASTING LICENSEES INCLUDING THE APPLICATION FOR, AND ISSUE, AMENDMENT AND RENEWAL OF SUCH LICENCES

Published under Government Notice R709 in *Government Gazette* 18017 of 16 May 1997.

The Independent Broadcasting Authority has, under [section 78](#)(1)(bB) and 78(1A) read with [section 41](#)(3) of the Independent Broadcasting Authority Act (Act No 153 of 1993) made the regulations in the Schedule.

SCHEDULE

- [1. Definitions](#)
- [2. Application fees](#)
- [3. Issue of licence](#)
- [4. Amendment of licence](#)
- [5. Licence fee](#)
- [6. Non-refundable](#)
- [7. Method of payment](#)
- [8. Short Title](#)

1. Definitions

- 1.1 **"Licence"** means a private sound broadcasting licence granted and issued in terms of the Act and a licensee means the holder of such a licence.
- 1.2 **"the Act"** means the Independent Broadcasting Authority Act (No. 153 of 1993)
- 1.3 **"Turnover"** means the total amount invoiced after the deduction of Value Added Tax.

2. Application fees

Every application for a licence shall be accompanied by a fee of R30 000.

3. Issue of licence

A licence granted to any applicant shall not be issued unless a fee of R2 500 has been paid to the Authority.

4. Amendment of licence

Every application for the amendment and/or renewal of a licence shall be accompanied by a fee of R30 000.

5. Licence fee

5.1 Every licensee shall pay to the Authority an annual licence fee of 1% of turnover less agency fees and discounts to a maximum of 20% of the 1%.

5.2 The said amount must be paid to the Authority within three months after the end of the first year of the licence and, thereafter, quarterly as fairly assessed within 45 days of the end of such quarter, to be adjusted immediately on receipt of the audited annual statements of the licensee.

6. Non-refundable

Fees paid in terms of regulations 2,3 and 4 are not refundable.

7. Method of payment

Payment of all amounts due in terms of these regulations must be by way of crossed bank guaranteed cheque payable to the Independent Broadcasting Authority or such other form of payment as may be acceptable and agreed to by the Authority from time to time.

8. Short Title

These regulations may be cited as the **Independent Broadcasting Authority Private Sound Broadcasting Service Licence Fees Regulations 1997.**

INDEPENDENT BROADCASTING AUTHORITY ACT 153 OF 1993

INDEPENDENT BROADCASTING AUTHORITY COMMUNITY SOUND BROADCASTING SERVICES FEES REGULATIONS 1997.

REGULATIONS RELATING TO THE PAYMENT TO THE AUTHORITY OF FEES IN RESPECT OF COMMUNITY SOUND BROADCASTING LICENCES INCLUDING THE APPLICATION FOR AND ISSUE, AMENDMENT AND RENEWAL OF SUCH LICENCES

Published under Government Notice R1053 in *Government Gazette* 18187 of 1 August 1997.

The Independent Broadcasting Authority has under [section 78](#) (1), read with [section 41](#) of the Independent Broadcasting Authority Act (Act No. 153 of 1993), as amended, made the regulations in the Schedule.

SCHEDULE

- [1. Definitions](#)
- [2. Application fees](#)
- [3. Application for renewal](#)
- [4. Issue of licence](#)
- [5. Amendment of licence](#)
- [6. Licence fee](#)
- [7. Non-refundable](#)
- [8. Method of payment](#)
- [9. Short title](#)

1. DEFINITIONS

Authority means the Independent Broadcasting Authority as established by [section 3](#) of the Act.

"Licence" means a community sound broadcasting licence granted and issued in terms of the Act and a licensee means the holder of such a licence.

"the Act" means the Independent Broadcasting Authority Act (No. 153 of 1993) as amended and the regulations framed thereunder.

and any word or expression to which a meaning has been assigned in the Act shall bear such meaning.

2. APPLICATION FEES

Every application for a licence shall be accompanied by a fee of three thousand rand (R3000).

3. APPLICATION FOR RENEWAL

Every application for a renewal of a licence shall be accompanied by a fee of three thousand rand (R3000).

4. ISSUE OF LICENCE

A licence granted to any applicant shall not be issued unless a fee of two hundred and fifty rand(R250) has been paid to the Authority.

5. AMENDMENT OF LICENCE

Every application for an amendment of a licence shall be accompanied by a fee of one thousand rand (R 1000).

6. LICENCE FEE

There shall be no annual licence fees payable.

7. NON-REFUNDABLE

Fees paid in terms of regulations 2,3 and.4 are not refundable.

8. METHOD OF PAYMENT

Payment of all amounts due in terms of these regulations must be by way of crossed, bank guaranteed cheque payable to the Authority or such other form of payment as may be acceptable and agreed to by the Authority from time to time.

9. SHORT TITLE

These regulations may be cited as the **Independent Broadcasting Authority Community Sound Broadcasting Services Fees Regulations 1997.**

INDEPENDENT BROADCASTING AUTHORITY ACT 153 OF 1993

INDEPENDENT BROADCASTING AUTHORITY PRIVATE TELEVISION BROADCASTING SERVICE LICENCE FEES REGULATIONS 1997.

REGULATIONS RELATING TO THE PAYMENT TO THE AUTHORITY OF CHARGES AND FEES IN RESPECT OF PRIVATE TELEVISION BROADCASTING LICENSES INCLUDING THE APPLICATION FOR, AND ISSUE, AMENDMENT AND RENEWAL OF SUCH LICENCES

Published by General Notice 1318 in *Government Gazette* 18271 of 5 September 1997.

The Independent Broadcasting Authority has, under [section 78](#)(1) (bB) and 78 (1) read with [section 41](#) (3) of the Independent Broadcasting Authority Act (Act no 153 of 1993), as amended, made the regulations in the Schedule.

SCHEDULE

1. [Definitions](#)
2. [Application Fees](#)
3. [Issue of licence](#)
4. [Amendment and Renewal of licence](#)
5. [Licence fee](#)
6. [Non-refundable](#)
7. [Method of payment](#)
8. [Short Title](#)

1. Definitions

- 1.1 **"Licence"** means a private television broadcasting licence granted and issued in terms of the Act and licensee means the holder of such a licence.
- 1.2 **"the Act"** means the Independent Broadcasting Authority Act (No. 153 of 1993), amended.
- 1.3 **"Turnover"** means the total amount invoiced after the deduction of Value Added Tax.
- 1.4 **"Financial year"** means the financial year of the, Authority.

2. Application Fees

Every application for a licence shall be accompanied by a fee of R300 000 (Three Hundred Thousand Rand).

3. Issue of licence

A licence granted to any applicant shall not be issued unless a fee of R5 000 (Five Thousand Rand) has been paid to the Authority.

4. Amendment and Renewal of licence

- 4.1 Every application for the amendment of a licence shall be accompanied by a fee of R200 000 (Two Hundred Thousand Rand).
- 4.2 Every application for the renewal of a licence shall be accompanied by a fee of R300 000 (Three Hundred Thousand Rand).

5. Licence fee

- 5.1 Every licensee shall pay to the Authority a maximum annual licence fee of 2% of turnover less agency fees and discounts to a maximum of 20% of the 2% subject to the provisions below:
 - 5.1.1 The Authority will announce any changes to the licence fee at the commencement of its financial year.
 - 5.1.2 Should the licensee seek a fee lower than the maximum stipulated in paragraph. 5.1, it must demonstrate good cause to the satisfaction of the Authority.
 - 5.1.2.1 In the event of a licensee relying on the provisions of 5.1.2, it must set out its reasons in writing and submit such supporting documentation as is necessary to enable the Authority to make a decision or to provide such further information as the Authority may request.
 - 5.1.3 The licensee shall furnish the Authority with audited information related to agency fees and discounts.
- 5.2 The annual licence fee shall be payable to the Authority within three months of the financial year-end of the licensee or such other period as the Authority may determine.
- 5.3 Where a licensee fails to pay the annual licence fee within the period specified in paragraph 5.2, the licensee shall be liable to the payment of interest calculated at prime plus 2% (two percent) per annum.

6. Non-refundable

Fees paid in terms of regulations 2,3 and 4 are not refundable.

7. Method of payment

Payment of all amounts due in terms of these regulations must be by way of a crossed bank guaranteed cheque payable to the Independent Broadcasting Authority or such other form of payment as may be acceptable and agreed to by the Authority from time to time.

8. Short Title

These regulations may be cited as the **Independent Broadcasting Authority Private Television Broadcasting Service Licence Fees Regulations 1997.**

INDEPENDENT BROADCASTING AUTHORITY ACT 153 OF 1993

INDEPENDENT BROADCASTING AUTHORITY SOUND BROADCASTING SERVICES TECHNICAL REGULATIONS, 1997

REGULATIONS RELATING TO TECHNICAL STANDARDS AND SPECIFICATIONS APPLICABLE TO ALL SOUND BROADCASTING SERVICES,

Published under Government Notice R1387 in *Government Gazette* 18380 of 17 October 1997.

The Independent Broadcasting Authority has, under [section 78](#) (1) (a) of the Independent Broadcasting Authority Act, 1993 (Act No. 153 of 1993), made the regulations in the Schedule.

SCHEDULE

- [1. Definitions](#)
- [2. The Broadcasting Services Frequency Bands for Sound Broadcasting Services](#)
- [3. Transmitter frequency tolerances](#)
- [4. Spurious emission power levels](#)
- [5. Designation of Emission](#)
- [6. Transmission Systems](#)
- [7. Channel Spacing](#)
- [8. Channel Numbering in Band II \(87.5MHz - 108MHz\)](#)
- [9. Modulation Standards](#)
- [10. Total Harmonic Distortion](#)
- [11. Signal to noise ratio](#)
- [12. Crosstalk](#)
- [13. Channel Separation](#)
- [14. AM Non-Synchronous noise](#)
- [15. Synchronous AM](#)
- [16. Control of modulation level](#)
- [17. Radio transmissions in VHF Band](#)
- [18. Short title](#)

Definitions

1. In these regulations any word to which a meaning has been assigned in the Independent Broadcasting Authority Act, 1993 Act No. 153 of 1993 shall have that meaning and unless the context otherwise indicates:
 - 1.1 “**Antenna Gain**” means the ratio expressed in decibels of the power required at the input of a loss free reference antenna to the power supplied to the input of the given antenna to produce in a given direction the same field strength.
 - 1.2 “**Assigned Frequency**” means the centre of the frequency band assigned to a sound broadcasting service.
 - 1.3 “**Authority**” means the Independent Broadcasting Authority established by [section 3](#) of the Act and includes the Broadcasting Monitoring and Complaints Committee established in terms of [section 21](#)(1)(b) of the Act.

- 1.4 **“Coverage Area”** means the area within which the field strength of the wanted transmitter is equal to or greater than the usable field strength.
- 1.5 **“Effective Radiated Power”** means the product of the power supplied to the antenna and its gain relative to a half wave dipole in a given direction.
- 1.5 **“Emission”** means radiation produced or the production of radiation by a radio transmitting station.
- 1.6 **“Frequency Tolerance”** means the maximum permissible departure by the centre frequency of the frequency band occupied by an emission from the assigned frequency.
- 1.6 **“Necessary bandwidth”** means for a given class of emission the width of the frequency band which is sufficient to ensure the transmission of information at the rate and with the quality required under specified conditions.
- 1.7 **“Out of band emission”** means emission on a frequency or frequencies immediately outside the necessary bandwidth which results from a modulation process but excluding spurious emission.
- 1.8 **“Power”** of the radio transmitter shall be expressed in one of the following forms according to the class of emission using the symbols indicated:
- | | |
|---------------------|----|
| Peak envelope power | PX |
| Mean power | PY |
| Carrier power | PZ |
- 1.9 **“Peak envelope power of a radio transmitter”** means the average power supplied to the antenna transmission line by a transmitter during one radio frequency cycle at the crest of the modulation envelope taken under normal operating conditions.
- 1.10 **“Mean power of a radio transmitter”** means the average power supplied to the antenna transmission line by a transmitter during an interval of time sufficiently long compared with the lowest frequency encountered in the modulation taken under normal operating conditions.
- 1.11 **“Carrier power of a radio transmitter”** means the average power supplied to the antenna transmission line by a transmitter during one radio frequency cycle taken under the condition of no modulation.
- 1.12 **“Radiation”** means the output flow of energy from any source in a form or radio waves.
- 1.13 **“Radio”** means an electromagnetic wave propagated in space without artificial guide and having, by convention, a frequency lower than 3 000 Ghz.
- 1.14 **“Radio communication”** means telecommunication by means of radio waves.
- 1.15 **“Service Area”** means that part of the coverage area in which the licensee has the right to demand that agreed protection conditions be provided.

- 1.16 **“Spurious Emission”** means an emission on a frequency or frequencies outside the necessary bandwidth and the level of which may be reduced without affecting the corresponding transmission of information. Spurious emissions include harmonic emission, parasitic emissions intermodulation products and frequency conversion products but exclude out of band emissions.
- 1.17 **“Station”** means one or more transmitters or receivers or a combination of transmitters and receivers including the accessory equipment necessary at one location for carrying on a radio communication service.
- 1.18 **“Telecommunication”** means any system or method of conveying signs, signals sound, communications or other information by means of electricity, magnetism, electromagnetic waves or any agency of a like nature whether with or without the aid or tangible conductors from one point to another.
- 1.19 **“the Act”** means the Independent Broadcasting Authority Act, 1993)(Act No. 153 of 1993), as amended.
- 1.20 **“Usable Field Strength”** means minimum value of field strength necessary to permit a desired reception quality under specified receiving conditions in the presence of natural and man made noise and interference.

The Broadcasting Services Frequency Bands for Sound Broadcasting Services

The following spectrum will be allocated to sound broadcasting services in South Africa:

2.1 **Medium frequency (MF) sound broadcasting:**

535.5 kHz to 1606.5 kHz

2.2 **High frequency (HF) sound broadcasting (Tropical Band):**

2 300 kHz to 2 498 kHz

3 200 kHz to 3 400 kHz

5 005 kHz to 5 060 kHz

4 750 kHz to 4 995 kHz

2.3 **High frequency sound broadcasting:**

3 900 kHz to 4 000 kHz

5 950 kHz to 6 200 kHz

7 100 kHz to 7 300 kHz

9 500 kHz to 9 900 kHz

11 650 kHz to 12 050 kHz

13 600 kHz to 13 800 kHz

15 100 kHz to 15 600 kHz

17 550 kHz to 17 900 kHz

21 450 kHz to 21 850 kHz

25 670 kHz to 26 100 kHz

2.4 **High frequency single sideband (SSB) sound broadcasting:**

5 900 kHz to 5 950 kHz

7 300 kHz to 7 350 kHz

9 400 kHz to 9 500 kHz

11 600 kHz to 11 650 kHz

12 050 kHz to 12 100 kHz

13 570 kHz to 13 600 kHz

13 800 kHz to 13 870 kHz

15 600 kHz to 15 800 kHz

17 480 kHz to 17 550 kHz

18 900 kHz to 19 020kHz

2.5 Very high frequency sound broadcasting (VHF-FM) Band II:

87.5 MHz to 108 MHz

Transmitter frequency tolerances

Transmitter frequency tolerances shall be as set out in the table below:

Frequency Band	Tolerance
535.5 kHz to 1606.5 kHz	10 Hz
1606.5 kHz to 29.7 MHz	10 Hz
87.5 MHz to 108 MHz	2000 Hz

4. Spurious emission power levels

The maximum permitted levels of spurious emissions, in terms of the mean power level of any spurious component supplied by a transmitter to the antenna transmission line shall be as set out in the table below:

Frequency Band	Spurious Emission Level
535.5 kHz to 1606.5 kHz	40dB/50mW
87.5MHz to 108MHz	
Tx o/p > 25W	60dB/1mW
Tx o/p < 25W	40dB/25mW

- 4.1 A spurious emission from any part of the installation other than the antenna and its transmission line shall not have an effect greater than would occur if the antenna system were supplied with the maximum permitted power at that spurious emission frequency.
- 4.2 In respect of any spurious component, the mean power within the necessary bandwidth relative to the mean power of the spurious component concerned shall be at least that specified in the table above.
- 4.3 The absolute mean power level specified in the table above shall not be exceeded.
- 4.4 If the Authority is satisfied that spurious emission from an installation is interfering with other licenced users, the Authority shall, at any time after written notice, request the relevant sound broadcasting service to cease transmission, if it is

satisfied that such cessation is necessary under the circumstances which request shall be immediately complied with, until such time as the Authority indicates, in writing, that transmission may resume.

5 Designation of Emission

- 5.1 Emissions will be designated according to their necessary bandwidth and their classification.
- 5.2 Bandwidth will be expressed by three numerals and one letter and classification will be according to a set of basic characteristics and standards symbols as specified by the Authority.

5.2.1 First symbol - type of modulation of the main carrier

Amplitude modulated double sideband	A
Vestigial sideband	C
Frequency modulation	F

5.2.2 Second symbol - nature of signal(s) modulating the main carrier

Single channel containing analogue information	3
Two or more channels containing analogue information	8

5.2.3 Third symbol - type of information to be transmitted

Sound broadcasting	E
Television	F

5.2.4 Fourth symbol - details of signal(s)

Monophonic sound broadcasting	G
Stereophonic sound broadcasting	H
Colour television broadcasting	N

5.2.5 Fifth symbol - nature of multiplexing

None	N
Frequency division multiplex	F

For the full designation of an emission, the necessary bandwidth, indicated in four characters shall be added just before the classification symbols.

6. Transmission Systems

The following maximum frequency deviations will be allowed:

- 6.1 in respect of monophonic systems: 75 kHz
- 6.2 in respect of stereophonic systems: 75 kHz

7. Channel Spacing

In licensing sound broadcasting services the Authority will require a uniform channel spacing of 100 kHz and ensure that nominal carrier frequencies are integral multiples of 100 kHz.

8. Channel Numbering in Band II (87.5MHz - 108MHz)

A		B		C		D		E		F	
1	87.6	32	90.7	64	93.9	97	97.2	132	100.7	168	104.3
2	87.7	33	90.8	65	94.0	98	97.3	133	100.8	169	104.4
3	87.8	34	90.9	66	94.1	99	97.4	134	100.9	170	104.5
4	87.9	35	91.0	67	94.2	100	97.5	135	101.0	171	104.6
5	88.0	36	91.1	68	94.3	101	97.6	136	101.1	172	104.7
6	88.1	37	91.2	69	94.4	102	97.7	137	101.2	173	104.8
7	88.2	38	91.3	70	94.5	103	97.8	138	101.3	174	104.9
8	88.3	39	91.4	71	94.6	104	97.9	139	101.4	175	105.0
9	88.4	40	91.5	72	94.7	105	98.0	140	101.5	176	105.1
10	88.5	41	91.6	73	94.8	106	98.1	141	101.6	177	105.2
11	88.6	42	91.7	74	94.9	107	98.2	142	101.7	178	105.3
12	88.7	43	91.8	75	95.0	108	98.3	143	101.8	179	105.4
13	88.8	44	91.9	76	95.1	109	98.4	144	101.9	180	105.5
14	88.9	45	92.0	77	95.2	110	98.5	145	102.0	181	105.6
15	89.0	46	92.1	78	95.3	111	98.6	146	102.1	182	105.7
16	89.1	47	92.2	79	95.4	112	98.7	147	102.2	183	105.8
17	89.2	48	92.3	80	95.5	113	98.8	148	102.3	184	105.9
18	89.3	49	92.4	81	95.6	114	98.9	149	102.4	185	106.0
19	89.4	50	92.5	82	95.7	115	99.0	150	102.5	186	106.1
20	89.5	51	92.6	83	95.8	116	99.1	151	102.6	187	106.2
21	89.6	52	92.7	84	95.9	117	99.2	152	102.7	188	106.3
22	89.7	53	92.8	85	96.0	118	99.3	153	102.8	189	106.4
23	89.8	54	92.9	86	96.1	119	99.4	154	102.9	190	106.5
24	89.9	55	93.0	87	96.2	120	99.5	155	103.0	191	106.6
25	90.0	56	93.1	88	96.3	121	99.6	156	103.1	192	106.7
26	90.1	57	93.2	89	96.4	122	99.7	157	103.2	193	106.8
27	90.2	58	93.3	90	96.5	123	99.8	158	103.3	194	106.9
28	90.3	59	93.4	91	96.6	124	99.9	159	103.4	195	107.0
29	90.4	60	93.5	92	96.7	125	100.0	160	103.5	196	107.1
30	90.5	61	93.6	93	96.8	126	100.1	161	103.6	197	107.2
31	90.6	62	93.7	94	96.9	127	100.2	162	103.7	198	107.3
Additional channels:											
63	93.8	95	97.0	96	97.1	128	100.3	129	100.4	130	100.5
131	100.6	163	103.8	164	103.9	165	104.0	166	104.1	167	104.2
199	107.4	200	107.5	201	107.5	202	107.7	203	107.8	204	107.9

9. Modulation Standards

9.1 Monophonic transmissions

- 9.1.1 The radio frequency signal must consist of a carrier frequency modulated by the sound signal after pre-emphasis with a maximum frequency deviation of 75 kHz.
- 9.1.2 The pre-emphasis characteristic of the sound signal must be identical to the admittance frequency curve of a parallel resistance capacitance circuit having a time constant of $50\mu s$.

9.2 Stereophonic transmissions

- 9.2.1 The radio frequency signal must consist of a carrier frequency modulated by a baseband signal according to the specification of the pilot-tone system. The maximum frequency deviation level will be 75 kHz.
- 9.2.2 The pre-emphasis characteristics of the sound signals M and S. are identical to the admittance -frequency curve of a parallel resistance capacitance circuit having a time constant of $50\mu s$.

10. Total Harmonic Distortion

In respect of frequencies from 30 Hz to 15 kHz a total harmonic distortion may not exceed 0.5%.

11. Signal to noise ratio

The unweighted audio frequency signal to noise ratio should be greater than 60dB.

12. Crosstalk

The non-linear crosstalk from the mono into the stereo component of the multiplex signal (and vice versa) should be more than 40dB below the wanted level, for all modulating frequencies from 30 Hz to 15 kHz.

13. Channel Separation

The channel separation should be more than 35dB below the wanted level for all frequencies from 30 Hz to 15 kHz.

14. AM Non-Synchronous noise

The non-synchronous AM noise modulation depth, for zero frequency modulation of the transmitter carrier, should be less than 0.3% or -50dB.

15. Synchronous AM

The synchronous AM depth due to frequency modulation of the transmitter carrier to ± 75 kHz deviation by a 1 kHz tone, should be less than 1% or 40dB.

16. Control of modulation level

Over deviation of FM sound transmitters is capable of causing interference to other transmitters. Suitable limiters must, therefore, be installed at the programme inputs of all FM transmitters to avoid over deviation and the resultant interference.

17. Radio transmissions in VHF Band

The technical specifications contained in SABS 1609-1/2 for radio transmissions in the VHF band shall be incorporated herein and shall be applicable to all sound broadcasting services.

18. Short title

These regulations may be cited as the **Independent Broadcasting Authority Sound Broadcasting Services Technical Regulations, 1997.**

INDEPENDENT BROADCASTING AUTHORITY ACT 153 OF 1993

INDEPENDENT BROADCASTING AUTHORITY COMMUNITY SOUND BROADCASTING LICENCES: CRITERIA TO MEASURE COMMUNITY SUPPORT REGULATIONS, 1997.

REGULATIONS RELATING TO THE CRITERIA ACCORDING TO WHICH THE SUPPORT FOR AN APPLICANT FOR A COMMUNITY SOUND BROADCASTING LICENCE BY THE RELEVANT COMMUNITY OR BY THOSE ASSOCIATED WITH OR PROMOTING THE INTERESTS OF SUCH COMMUNITY SHALL BE MEASURED

Published under Government Notice R1388 in *Government Gazette* 18380 of 17 October 1997.

The Independent Broadcasting Authority has, under [section 78](#)(1) read with [section 47](#)(1)(c) of the Independent Broadcasting Authority Act, 1993 (Act No. 153 of 1993) as amended, made the regulations in the Schedule.

SCHEDULE

- [1. Definitions](#)
- [2. Criteria for measuring support of community](#)
- [3. Methods of providing evidence](#)
- [4. Survey](#)
- [5. Short title](#)

Definitions

1. In these regulations, unless the context otherwise indicates -
 - 1.1 **“an applicant”** means a person who has applied for a community broadcasting licence contemplated in [section 47](#) of the Act.,
 - 1.2 **“Authority”** means the Independent Broadcasting Authority as established by [section 3](#) of the Act.
 - 1.3 **“the Act”** means the Independent Broadcasting Authority Act, 1993 (Act No. 153 of 1993), and the regulations framed thereunder

and any word or expression to which a meaning has been assigned in the Act shall bear such meaning.

Criteria for measuring support of community

2. Support for a community sound broadcasting service shall be determined according to the following criteria:
 - 2.1 The number of listeners which the applicant proposes to serve;
 - 2.2 The level of interest among the potential listenership in the proposed service;
 - 2.3 The level of support from funders,

- 2.4 The provision of sufficient resources and funding necessary to ensure the viability of the service.

Evidence of the relevant support and of its extent shall be provided in the manner outlined in regulation 3 or 4.

Methods of providing evidence

3. The applicant must provide evidence of support from the community for the proposed service by providing at least two of the following four categories of documents:
 - 3.1 A list containing -
 - 3.1.1 a declaration that the applicant has the support of each signatory;
 - 3.1.2 the signatures of the members of the community;
 - 3.1.3 the name and address of each signatory; and
 - 3.1.4 the personal characteristics of each signatory which qualify him or her as a member of the community to be served by the proposed service. This may include gender, age, religion, language and any other relevant characteristic;
 - 3.2 correspondence, minutes of meetings, lists of *bona fide* members of voluntary associations and any other documents that show support for the proposed service.
 - 3.3 letters or other documents that show -
 - 3.3.1 the amount of funding which the proposed broadcasting service is likely to receive from each different source, whether donations, grants, sponsorships or advertising or membership fees. A monthly breakdown of income for the duration of the licence must be provided.
 - 3.3.2 resources other than funding which the proposed broadcasting service is likely to receive and the sources thereof, or
 - 3.4 any other material that shows the applicant has the support of the community.

The Authority may require the production of proof on affidavit of anything contained in any document furnished as provided in subregulation (3).

- 3.5 In addition to the above documents the applicant may also be required to conduct a survey if:
 - 3.5.1 competitive licence applications have been submitted or if
 - 3.5.2 the evidence provided does not sufficiently show whether the applicant has the support of the community.

Survey

4. An applicant may, instead of providing evidence as contemplated in sub-regulation 3, provide results of a survey which show whether the applicant has the support of the community.
 - 4.1 Such survey shall be conducted by a person or body who is affiliated to -
 - 4.1.1 The Association of Marketing Research Organisations; or
 - 4.1.2 any other person which conduct market research and which has a code of conduct that is acceptable to the Authority or
 - 4.1.3 by any other person or body who is acceptable to the Authority.
 - 4.2 When investigating the potential listener support for a service, surveys must;
 - 4.2.1 relate to the particular community to be served by the proposed service,
 - 4.2.2 Ascertain the personal characteristics of each respondent which qualify him or her as a member of the community;
 - 4.2.3 ascertain whether the respondent possesses or has access to a receiver;
 - 4.2.4 ascertain the nature of the radio programmes which each respondent habitually listens to and the days and time when he or she listens to,
 - 4.2.5 ascertain the extent of interest of each respondent in receiving the proposed broadcasting service.
 - 4.3 The survey shall be conducted in accordance with the code of conduct for marketing research of the Southern African marketing Research Association. The Authority may waive this requirement if an adequate motivation is given by the applicant.
 - 4.4 The applicant shall provide, together with the survey results -
 - 4.4.1 the name, address, qualifications and experience and professional membership, if any, of the person who conducted the survey.
 - 4.4.2 the period during which the survey was conducted;
 - 4.4.3 how the data was collected;
 - 4.4.4 times of the day when the survey was conducted;
 - 4.4.5 the characteristics and qualifications of the field workers used in conducting the survey;
 - 4.4.6 the instruments used in the survey;

- 4.4.7 problems experienced during the conducting of the survey and how they were resolved with particular reference to non-response;
- 4.4.8 a summary of the results and as many detailed tables as possible;
- 4.4.9 a distribution of the sample errors for all the variables reported in the results;
- 4.4.10 a questionnaire containing the questions reported in the results and, if the survey was carried out in more than one language, the questionnaire used in all the languages;
- 4.4.11 the sampling methods employed;
- 4.4.12 the geographical areas covered by the survey and
- 4.4.13 any other information relating to the carrying out of the survey as may be relevant.

Short title

- 5. These regulations may be cited as the **Independent Broadcasting Authority Community Sound Broadcasting Licences: Criteria to Measure Community Support Regulations, 1997.**

INDEPENDENT BROADCASTING AUTHORITY ACT 153 OF 1993

INDEPENDENT BROADCASTING AUTHORITY ADMINISTRATIVE PROCEDURES REGULATIONS, 1997.

REGULATIONS RELATING TO ADMINISTRATIVE PROCEDURES

Published by General Notice 1540 in *Government Gazette* 18392 of 24 October 1997.

The Independent Broadcasting Authority has under [section 78](#)(1) of the Independent Broadcasting Authority Act, 1993 (Act 153 of 1993), made the regulations in the Schedule.

SCHEDULE

- [1. Definitions](#)
- [2. Office of the Authority](#)
- [3. Normal office hours](#)
- [4. Filing of documents](#)
- [5. Documents to be marked with reference number](#)
- [6. Documents which are faint or of irregular size](#)
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- [10. Certified, authenticated and translated documents to be bound](#)
- [11. Fees for copies or extracts and for certifying](#)
- [12. Manner of payment of fees](#)
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- [14. Authority may use copy or extract](#)
- [15. Registrar may reject documents not complying](#)
- [16. Party may not rely on formal defect](#)
- [17. Indexes](#)
- [18. Minutes of meetings with the Authority](#)
- [19. Short Title](#)

[SCHEDULE 1 - FEES FOR COPIES OR EXTRACTS](#)

[SCHEDULE 2](#)

1. Definitions

In these regulations, unless the context otherwise indicates -

- (i) "**Authority**" means the Independent Broadcasting Authority established by [section 3](#) of the Act and includes the Broadcasting Monitoring and Complaints Committee established in terms of [section 21](#)(1)(b) of the Act;
- (ii) "**office of the Authority**" and "**Office**" means the office referred to in regulation 2;

- (iii) **"registrar"** means the chief administrative officer of the Authority appointed under [section 14](#)(1) of the Act, and includes any other staff member of the Authority specially authorised thereto;
- (iv) **"the Act"** means the Independent Broadcasting Authority Act, 1993 (Act No. 153 of 1993), as amended, and any other word or expression to which a meaning has been assigned in the Act shall bear such meaning.

2. Office of the Authority

- (1) The headquarters of the Authority is situated at Khasho House, 26 Baker Street, Rosebank, Johannesburg.
- (2) The postal address of the Authority is Private Bag X31, Parklands, 2121.
- (3) The telephone number of the Authority is (011) 447-6180/6
- (4) Facsimile documents may be received by the Authority if transmitted on telephone number (011) 447-6187/88/89.

3. Normal office hours

- (1) The office of the Authority shall be open to the public:-
 - (a) from 10:00 to 16:30 on Mondays to Fridays; and
 - (b) subject to the provisions of sub-regulation 3 (2), at any other times and on any other days determined by the Authority.
- (2) The office shall not be open to the public:-
 - (a) on days which are public holidays according to law.,
 - (b) on days which may from time to time be notified by means of a placard posted in a conspicuous place at the office or in such other manner as the Authority may think fit;
 - (c) from 24 December in any year to 1 January the following year both days inclusive.

4. Filing of documents

- (1) The registrar shall open and maintain a separate file in respect of each -
 - (a) inquiry contemplated in [section 28](#) of the Act;
 - (b) draft frequency plan contemplated in [section 31](#)(2) of the Act;
 - (c) amendment of a frequency plan contemplated in [section 31](#)(5) of the Act;
 - (d) Application for or renewal, amendment or transfer of a broadcasting signal distribution licence contemplated in [section 34](#) of the Act;

- (e) application for a broadcasting licence contemplated in [section 41](#) of the Act;
 - (f) renewal of a broadcasting licence contemplated in [section 44](#) of the Act;
 - (g) amendment of a broadcasting licence contemplated in [section 52](#) of the Act;
 - (h) transfer of a broadcasting licence contemplated in [section 74](#) of the Act;
 - (i) complaint contemplated in [section 63](#) of the Act to the Broadcasting Monitoring and Complaints Committee.
 - (j) monitoring reports and records relating to each licence issued by the Authority
 - (k) any confidential material or information as contemplated in [section 42](#)(b) of the Act.
 - (l) any other documentation deemed appropriate by the Authority.
- (2) Any application, comment, representation or other document lodged with the Authority and any proceedings, findings or rulings of the Authority in connection with any such inquiry, plan, amendment, application, renewal, transfer or complaint shall be filed on record by the registrar in the file concerned.

5. Documents to be marked with reference number

- (1) The Authority may, when it gives notice inviting written comments or representations in connection with an inquiry, plan, amendment, application, renewal, transfer or complaint referred to in regulation 4, specify a reference number which has been assigned thereto.
- (2) Where a reference number has been assigned and specified as contemplated in sub-regulation 5 (1), all comments, representations and any other documents lodged with the Authority in connection with the inquiry, plan, amendment, application, renewal, transfer or complaint concerned shall bear that reference number on the first page of the document.

6. Documents which are faint or of irregular size

- (1) A person who lodges a document with the Authority shall, if in the opinion of the registrar that the document is, owing to the faintness thereof, not clearly legible or not capable of producing a clearly legible photocopy, provide the Authority with an acceptable substitute of that document.
- (2) A person who lodges a document with the Authority shall, if in the opinion of the registrar that the document is, owing to the irregular size of its pages, unsuitable for purposes of record or for making photocopies, provide the Authority with an acceptable substitute of that document.

7. Lodgment of certified true copies of documents

- (1) A person who lodges a copy instead of the original of a document, shall, if the Authority so requires, furnish to the Authority a copy thereof which is certified to be a true copy of the original document.
- (2) Any such copy required by the Authority shall be so certified: -
 - (a) in the case of a copy of a document which is filed of record in any government office, by or on behalf of the person in charge of such office or the officer to whose custody the original is entrusted;
 - (b) in the case of a copy of any other document, by a notary public.
- (3) A notary public or commissioner of oaths who certifies a document as contemplated in sub-regulation 7(2)(b) shall affix his seal to each page of the document so certified.

8. Verification of signatures

- (1) Where the authenticity of any signature on any document lodged is in question, the Authority may require the person who lodged such document to cause such signature to be authenticated as provided in this regulation.
- (2) The signature in question may, as indicated by the Authority: -
 - (a) be authenticated by the signature and seal of office of a notary public or commissioner of oaths;
 - (b) be authenticated in manner prescribed in the rules of the provincial and local divisions of the High Court of South Africa for the authentication of documents executed outside the Republic to permit of their being produced or lodged in any public office in the Republic; or
 - (c) be shown in any other manner and to the satisfaction of the Authority to have been actually made by the person purporting to have signed the document.

9. Documents in a language other than an official language

- (1) A person who lodges a document with the Authority which is in a language other than an official language of the Republic shall lodge with such document a translation thereof into such an official language.
- (2) Such translation shall:
 - (a) be certified to be a correct translation of such document by a person who is admitted and enrolled by a division of the High Court of South Africa as a sworn translator in the official language and foreign language concerned; or
 - (b) be otherwise verified to the satisfaction of the Authority.

10. Certified, authenticated and translated documents to be bound

Where the Authority requires:

- (a) a document to be certified a true copy as contemplated in regulation 7;
- (b) a signature to be authenticated as contemplated in regulation 8; or
- (c) a document to be translated as contemplated in regulation 9,

the pages of the document concerned, including all appendices shall be collated and numbered consecutively and bound or suitably secured, to the satisfaction of the registrar or the Authority, together with a complete index thereto.

11. Fees for copies or extracts and for certifying

- (1) An interested party shall pay the fee set out in Schedule for a copy of or extract from:
 - (a) any written representations made pursuant to a notice of intention to conduct an inquiry, as contemplated in [section 28\(5\)](#) of the Act;
 - (b) any frequency plan or any written comments or representations on a draft frequency plan, as contemplated in [section 31\(4\)\(b\)](#) of the Act;
 - (c) any amendment of a frequency plan or any written comments or representations on such amendment, as contemplated in [section 31\(5\)\(b\)](#) read with section 31(4)(b) of the Act;
 - (d) any documents in connection with an application for or the renewal, amendment or transfer of a broadcasting signal distribution licence, as contemplated in [section 34](#) of the Act;
 - (e) any application for a broadcasting licence, any written representations lodged in relation to such an application, the applicant's written response thereto or any further documentary information furnished by the applicant or such person, or any proceedings, findings or rulings at any hearing in respect thereof, as contemplated in [section 42\(5\)\(c\)](#) of the Act;
 - (f) any such application, representations, response, information, proceedings, findings or rulings in connection with a renewal of a broadcasting licence, as contemplated in [section 44\(2\)](#) read with [section 42\(5\)\(c\)](#) of the Act;
 - (g) any such application, representations, response, information, proceedings, findings or rulings in connection with an amendment of a broadcasting licence, as contemplated in [section 52\(4\)](#) read with [section 42\(5\)\(c\)](#) of the Act;
 - (h) any such application, representations, response, information, proceedings, findings or rulings in connection with a transfer of a broadcasting licence, as contemplated in [section 74\(2\)](#) of the Act;

- (i) any written complaint or written representations or evidence received by the Broadcasting Monitoring and Complaints Committee, or its proceedings, rulings or findings in connection therewith, as contemplated in [section 63\(9\)\(c\)](#) of the Act;
 - (j) the register of licences kept by the Authority, as contemplated in [section 70\(3\)](#) of the Act.
- (2) Should an interested party wish to obtain a transcript of any proceedings which have been mechanically recorded, he or she shall pay in addition to such other fees as may be prescribed in these regulations, the fees set out in part C of schedule 2.
- (3) When such party requests the Authority to certify any such copy or extract as contemplated in regulation 13, he or she shall, in addition to the fee prescribed by sub-regulation 11(1), pay:
- (a) the fee for certification set out in Part A of Schedule 2; and
 - (b) where such certified copy or extract is required to be bound or fastened as contemplated in regulation 13(4), the fee set out in Part B of Schedule 2.

12. Manner of payment of fees

- (1) Fees payable to the Authority shall be paid in cash or postal money order or guaranteed cheque to the Authority.
- (2) Where fees are paid to the Authority as contemplated in sub-regulation 12 (1), the registrar shall issue a receipt therefore;
- (3) The registrar may, by means of adhesive paste or glue, affix the receipt or deposit slip concerned to the rear of the first page of the copy or extract in respect of which the fee was paid.

13. Certified copies of or extracts from records kept by Authority

- (1) Where the Authority is requested by an interested person to furnish him or her with a certified copy of or extract from a document, such copy or extract may be certified as provided in this regulation.
- (2) The interested person concerned shall, before the document is certified, pay:
 - (a) the appropriate fee for copying the document prescribed by regulation 11 (1);
 - (b) in addition to such copying fee:
 - i) the fee for certifying the document prescribed by regulation 11(2)(a); and
 - ii) where the registrar requires the document to be bound or fastened as contemplated in sub-regulation 13 (4), the fee for binding prescribed by the regulation 11(2)(b).

- (3) Any such copy of or extract from a document shall be certified on each page as a true copy of or extract from the document by means of the signature of the registrar and the stamp or seal of the Authority.
- (4) (a) The registrar may require that such copy or extract shall, before being so certified, be bound or otherwise fastened together in the manner determined by the registrar.

(b) Such binding or fastening together shall be undertaken by the Authority utilizing its own binding facilities.

14. Authority may use copy or extract

The Authority may, in any inquiry, hearing or other proceeding conducted by the Authority in terms of the Act, use a copy of or extract from any document lodged or filed of record with the Authority instead of the document concerned.

15. Registrar may reject documents not complying

The registrar may reject any document which does not comply with the provisions of these regulations.

16. Party may not rely on formal defect

A failure by any person to comply with these regulations shall not confer any right on a party to any inquiry, hearing or other proceeding conducted by the Authority in terms of the Act.

17. Indexes

The registrar shall keep such registers or records as may be necessary for the purpose of affording ready reference to:

- (1) any inquiry, plan, amendment, application, renewal, transfer or, complaint referred to in regulation 4; and
- (2) the register of licences kept by the Authority.

18. Minutes of meetings with the Authority

Where interested parties request a meeting with the Council or management of the Authority, such parties shall be obliged make available to the Authority a minute of such meeting within 5 working days, whereafter the Authority shall confirm the minute in writing.

19. Short Title

These regulations may be cited as the Independent Broadcasting Authority Administrative Procedures Regulations, 1997.

SCHEDULE 1

FEES FOR COPIES OR EXTRACTS

[regulation 11 (1)]

A 4 (297mm X 210mm) or smaller pages:

For any number of pages..... 40c per page

A3 (420mm X 297mm) pages:

For any number of pages..... 50c per page

SCHEDULE 2

PART A

FEES FOR CERTIFYING

[regulation 11(2)(a)]

- | | | |
|-----|-----------------------------|--------------|
| (a) | For the first 10 pages..... | 50c per page |
| (b) | For the next 90 pages..... | 30c per page |
| (c) | For subsequent pages..... | 20c per page |

PART B

FEES FOR BINDING

[regulation 11(2)(a)]

The tariff in respect of the binding undertaken by the Authority shall be a market related amount plus an additional amount equal to 20% of such tariff

PART C

FEES FOR TRANSCRIPTS OF RECORDINGS

The tariff of the firm selected by the Authority to undertaking the transcription of the mechanical recording, plus an additional amount equal to 20% of such tariff.

INDEPENDENT BROADCASTING AUTHORITY ACT 153 OF 1993

INDEPENDENT BROADCASTING AUTHORITY SIGNAL DISTRIBUTION FEES REGULATIONS 1997.

REGULATIONS RELATING TO THE PAYMENT TO THE AUTHORITY OF CHARGES AND FEES IN RESPECT OF BROADCASTING SIGNAL DISTRIBUTION LICENCES INCLUDING THE APPLICATION FOR, ISSUE, AMENDMENT, RENEWAL, TRANSFER OR OTHER DISPOSAL OF SUCH LICENCES AND THE PERIODICAL MAINTENANCE OF THE FORCE AND EFFECT OF SUCH LICENCES.

Published under Government Notice R1577 in *Government Gazette* 18463 of 21 November 1997.

The Independent Broadcasting Authority has, under [section 78\(1\)\(bB\)](#) and (IA) of the Independent Broadcasting Authority Act (Act No 153 of 1993), as amended, made the regulations in the Schedule.

- [1. Definitions](#)
- [2. Application Fees](#)
- [3. Annual licence fee](#)
- [4. Other charges and fees](#)
- [5. Non-refundable](#)
- [6. Hourly Rate](#)
- [7. Method of payment](#)
- [8. Short Title](#)

SCHEDULE

1. Definitions

- 1.1 “**Category 1**” means a licence to an applicant to provide broadcasting signal distribution as a common carrier for broadcasting licensees, on their request on an equitable, reasonable, non-preferential and non-discriminatory basis, as contemplated in subparagraph (a) of [section 33](#) (1), read with [section 37](#)(a), of the Act;
- 1.2 “**Category 2**” means a licence to an applicant to provide broadcasting signal distribution for broadcasting licensees, on a selective and preferential basis, as contemplated in subparagraph (ii) of paragraph (a) of [section 33](#)(1), read with [section 37](#)(a), of the Act;
- 1.3 “**Category 3**” means a licence to an applicant to provide broadcasting signal distribution wholly or partly for himself or herself as a broadcasting licensee and without providing the same for any other broadcasting licensee, as contemplated in subparagraph (iii) of paragraph (a) of [section 33](#)(1), read with [section 37](#)(a) of the Act;

- 1.4 “**Category 3 (private broadcasting)**” means a private broadcasting licensee as contemplated in sections [40\(1\)\(a\)\(ii\)](#) and [40\(1\)\(b\)\(ii\)](#) of the Act;
- 1.5 “**Category 3 (community broadcasting)**” means a community broadcasting licensee as contemplated in [sections 40\(1\)\(a\)\(iii\)](#) and [40\(1\)\(b\)\(iii\)](#) of the Act;
- 1.6 “**Hour**” means any hour or part thereof during a hearing for a broadcasting signal distribution licence application;
- 1.7 “**Licence**” means a broadcasting signal distribution licence granted and issued in terms of the Act and licensee means the holder of such a licence;
- 1.8 “**The Act**” means the Independent Broadcasting Authority Act, 1993 (Act No 153 of 1993), as amended; and,
- 1.9 “**Turnover**” means the total amount invoiced after the deduction of Value Added Tax.

2. Application Fees

Applications for broadcasting signal distribution licences must be accompanied by the following fees:

2.1	Category 1:	R2 000 per hour
2.2	Category 2:	R2 000 per hour
2.3	Category 3 (private broadcasting)	R2 000 per hour
2.4	Category 3 (community broadcasting)	Nil

3. Annual licence fee

3.1 Every licensee must pay to the Authority a maximum annual licence fee determined as follows:

3.1.1 Where the licensee's annual turnover exceeds R200 000, and the licensee has access to some high sites, the licensee must pay 1% of such turnover,

3.1.2 Where the licensee's turnover does not exceed R200 000 and the licensee has some access to high sites, the licensee must pay 0,5% of such turnover;

and,

3.1.3 Where the licensee's annual turnover is less than R200 000, and the licensee has access to no high sites, the licensee must pay 0,25% of such turnover.

3.2 The annual licence fee must be payable to the Authority within three months of the financial year-end of the licensee or such other period as the Authority may determine.

3.3 Where a licensee falls to pay the annual licence fee within the period specified in the above paragraph, the licensee shall be liable for the payment of interest calculated at prime plus 2% (two percent) per annum.

4. Other charges and fees

4.1 Licence Issue

Category 1:	R500
Category 2:	R500
Category 3 (private broadcasting):	R500
Category 3 (community broadcasting):	Nil

4.2 Amendment

Category 1:	R2 000 per hour
Category 2:	R2 000 per hour
Category 3 (private broadcasting):	R2 000 per hour
Category 3 (community broadcasting):	Nil

4.3 In respect of renewals, transfers and any other disposal of a licence for all categories, other than Category 3 (community broadcasting) for which no fee will be charged, the fee will be no less than a minimum of three hours at R2 000 per hour or such other amount as the Authority may determine in the circumstances.

5. Non-refundable

Fees paid in terms of regulations 2, 3 and 4 are not refundable.

6. Hourly Rate

6.1 The applicant must, at the time of lodging his/her application, pay to the Authority an amount equal to three hours or such additional amount as the Authority may determine.

6.2 Where the Authority determines a charge greater than three hours, the applicant must pay such additional amount immediately prior to the commencement of the hearing or at such other time as the Authority may determine in writing to the applicant.

7. Method of payment

Payment of all amounts due in terms of these regulations must be by way of a crossed bank guaranteed cheque payable to the Independent Broadcasting Authority or such other form of payment as may be acceptable and agreed to by the Authority in writing from time to time.

8. Short Title

These regulations may be cited as the **Independent Broadcasting Authority Signal Distribution Fees Regulations 1997**.

INDEPENDENT BROADCASTING AUTHORITY ACT 153 OF 1993

INDEPENDENT BROADCASTING AUTHORITY (ADVERTISING, INFOMERCIALS AND PROGRAMME SPONSORSHIP) REGULATIONS, 1999.

REGULATIONS RELATING TO THE DEFINITION OF ADVERTISING AND THE REGULATION OF INFOMERCIALS AND PROGRAMME SPONSORSHIP IN RESPECT OF BROADCASTING ACTIVITIES

Published under Government Notice R426 in *Government Gazette* 19922 of 1 April 1999 and amended by:

GN R551

GG 23389

10/5/2002

The Independent Broadcasting Authority, has under [section 78](#)(1) of the Independent Broadcasting Authority Act No. 153 of 1993, as amended, made the regulations in the Schedule.

- [1. Definitions](#)
- [2. Application](#)
- [3. Advertising](#)
- [4. Infomercials](#)
- [5. Programme Sponsorship](#)
- [6. Effective date](#)
- [7. Short title](#)

SCHEDULE

1 Definitions

In these regulations, any word or expression to which a meaning has been assigned in the Act shall bear such meaning and, unless the context indicates otherwise:

- 1.1 “Act” means the Independent Broadcasting Authority Act, No. 153 of 1993;
- 1.2 “advertisement” means any material broadcast, in visual and/or audio form, for which the broadcaster receives a consideration, in cash or otherwise, and which promotes the interests of any person, product or service, provided that:
 - 1.2.1 spot commercials, public service announcements for which the broadcaster receives a consideration, any material that would constitute an infomercial but for the fact that it is of two minutes, duration or less, that part of sponsorship packages which is constituted by spot commercials, and commercial features shall be regarded as being advertisements; but
 - 1.2.2 public service announcements in respect of which the broadcaster does not receive any consideration, supply agreements, infomercials exceeding two minutes in duration, branded filler material which is of a public service nature, sponsorship elements which form part of in-programme material, presenters' credits and (in relation to competitions and self-promotions)

programme competitions, branded promotional spots and self-promotion promos shall not be regarded as being advertisements;

- 1.3 “ASA” means the Advertising Standards Authority of South Africa;
- 1.4 “Authority” means the Independent Broadcasting- Authority established by [Section 3](#) of the Act;
- 1.5 “BMCC” means the Broadcasting Monitoring & Complaints Committee referred to in [Section 21](#) (1)(b) of the Act;
- 1.6 “branded filler material which is of a public service nature” means a visual and/or audio announcement transmitted by a broadcaster and aimed at imparting knowledge the dissemination of which is in the public interest, regardless of whether such announcement has the effect of promoting the interests of a commercial entity;
- 1.7 “branded promotional spot” means a promotional announcement transmitted by a broadcaster regarding a forthcoming programme or regarding a channel or station and which mentions or refers to an advertiser or a commercial entity;
- 1.8 “broadcaster” means a person who provides a broadcasting service under and in accordance with a broadcasting licence issued to it by the Authority under Chapter VI of the Act;
- 1.9 “commercial feature” means a stand-alone feature, unrelated to a programme, and which may take the form of (but is not limited to) a commercial competition, advertising feature or advertising programme which is primarily intended to promote the interests of one or more person product, service or sponsor, regardless of duration, and excludes any programme competition;
- 1.10 “infomercial” means material of more than two minutes' duration, broadcast in visual and/or audio form, for which the broadcaster receives a consideration, in cash or otherwise, which is usually (but not necessarily) presented in a programme format, which promotes the interests of any person, product or service, which entails a direct offer of a product or service to a member or members of the public in return for payment, and which usually (but not necessarily) contains a demonstration of the use of the product or service concerned, and includes material known as tele-shopping, home shopping, direct marketing and direct sales;
- 1.11 News means “programming that is not current affairs by a broadcaster in which it reports on news events of immediate social, political or economic relevance and on matters of international, national and local significance”;
[Reg. 1.11 substituted by GN R551/2002]
- 1.12 “performance period” means the period between 05h00 and 23h00 every day;
- 1.13 “presenters' credits” means any acknowledgement of the provision of hair products, clothing, accessories, make-up or other goods or services to a production company or broadcaster by a third party;
- 1.14 “prime time”, in relation to a person who provides a television broadcasting service, means the period between 18h00 and 22h00 every day;

- 1.15 “product placement” means the depiction of, or a reference to, a product or service in material (other than an advertisement) broadcast, in visual and/or audio form, in respect of which the broadcaster and/or the producer of the material concerned receives payment or other valuable consideration and which promotes the interests of any person, product or service;
- 1.16 “programme competition” means a competition that forms part of, or is linked to, a programme by way of a competition window, insert or slot, and which does not have the promotion of the commercial interests of a person, product or service as its primary purpose;
- 1.17 “programme sponsorship” means the direct or indirect financing, whether partial or total, of the production or transmission of broadcast programme material by an advertiser or person with a view to promoting its own or another person's name, trade mark, image, activities or product;
- 1.18 “public service announcement” means a visual and/or audio announcement transmitted by a broadcaster and aimed at imparting knowledge or information the dissemination of which is in the public interest and/or which attempts to solicit support for, or create awareness of, any non-profit organisation or any other organisation which conducts activities in the public interest;
- 1.19 “self-promotion promo” means a promotional announcement transmitted by a broadcaster and which focuses on a forthcoming programme to be transmitted by that broadcaster, or on the broadcaster itself or one of its channels;
- 1.20 “sponsorship element” means marketing material which forms part of, or is superimposed on, broadcast programme material and includes (but is not necessarily limited to) on-screen corner logos, opening and closing billboards, stings, squeezebacks, the on-air depiction of, or referral to, any brand, product or name, ribbons and crawls, naming rights, and product placements;
- 1.21 “supply agreement” means any agreement that forms part of a programme purchasing contract concluded between a broadcaster and a programme provider and which usually, but not necessarily, specifies the amount and frequency of promotional material which the broadcaster is obliged to transmit before, during or after the transmission of the purchased programme material.

2. Application

- 2.1 These regulations are binding on every broadcaster who provides a television broadcasting service and, to the extent that they are applicable, taking into account the nature of a sound broadcasting service and the nature of the obligations imposed by these regulations, on every broadcaster who provides a sound broadcasting service.
- 2.2 Every broadcaster shall, in addition to complying with these regulations, comply with the Code of Advertising Practice of the ASA, as required by [Section 57\(1\)](#) of the Act.

- 2.3 To the extent that there may be any inconsistency between these regulations and the Code of Advertising Practice of the ASA in respect of any matter which fails within the jurisdiction of the Authority, these regulations shall prevail.

3. Advertising

- 3.1 The definition of “advertisement” set out in regulation shall be applicable to all broadcasters.
- 3.2 The definition of “advertisement” set out in regulation 1 shall be used by the Authority to distinguish between programme material, advertisements, infomercials and programme sponsorships transmitted by broadcasters, for the purposes of:
- 3.2.1 ensuring compliance by broadcasters with these regulations;
 - 3.2.2 determining whether jurisdiction in respect of complaints concerning material transmitted by broadcasters vests in the BMCC or the ASA;
 - 3.2.3 in the case of broadcasters who provide a television broadcasting service, regulating the amount of advertising that may be transmitted.
- 3.3 Any broadcaster who transmits a programme competition, a branded promotional spot, branded filler material, a self-promotion promo or a sponsorship element in the form of the on-air depiction of, or referral to, any brand, product or name, shall ensure that the primary purpose of the broadcast of such material is to promote the broadcaster or the programme concerned, rather than the commercial interests of the person, product or service referred to in the course of such transmission.
- 3.4 Transmission elements such as continuity announcements and station identification, in the form of on-screen logos, signature tunes and the like, do not constitute advertisements.

4. Infomercials

- 4.1 No broadcaster may transmit any infomercials during prime time or during the transmission of, or in breaks during the transmission of, any children's programme.
- 4.2 Every broadcaster shall ensure that all infomercials transmitted by it are presented and labelled in such a manner that it will be clear to the audience that such infomercials do not constitute programme material.
- 4.3 No channel may transmit infomercials for more than two hours during the performance period in any one day,
- 4.4 The provisions of this regulation 4 shall not apply to any dedicated infomercial channel which may obtain a broadcasting licence from the Authority in accordance with the applicable provisions of the Act.

5. Programme Sponsorship

- 5.1 Every broadcaster who derives benefit from a programme sponsorship shall ensure that, in relation to the relevant sponsored programme, editorial control remains with that broadcaster.
 - 5.2.1 in respect of every programme sponsorship obtained or accepted by it, enter into a written sponsorship contract with the sponsor which shall provide that the sponsor shall not be entitled in any way to influence the content or scheduling of the sponsored programme;
 - 5.2.2 on the Authority's request furnish the Authority with copies of sponsorship contracts concluded by that broadcaster.
- 5.3 A broadcaster who provides a television broadcasting service shall not obtain or accept any programme sponsorship from any person in respect of any news or current affairs programme.
- 5.4 Notwithstanding regulation 5.3, a broadcaster who provides a television broadcasting service shall be entitled to obtain or accept a programme sponsorship in respect of a weather forecast or sports results bulletin which constitutes part of a news programme broadcast by that broadcaster.
- 5.5 Any depiction of, or referral to, the name, logo, product or service of a person who provides a programme sponsorship to a broadcaster, whether before, during or after the broadcast of the relevant programme, shall be subordinate to the content of the programme material to ensure that undue prominence is not given to that name, logo, product or service.
- 5.6 No broadcaster shall permit any product placement in any news or current affairs programme transmitted by it,
- 5.7 Product placement in programming other than news and current affairs shall be subordinate to the content of the programme material.
- 5.8 No broadcaster shall accept any programme sponsorship from any person who is prohibited by any legislation from procuring the transmission by a broadcaster of any advertisement, infomercial or other marketing material.
- 5.9 In all cases of programme sponsorship, the broadcaster shall, before and after the transmission of the sponsored programme, state clearly the nature of the sponsor's association with the relevant sponsored programme. Preference should be given to descriptions such as "sponsored by" or "in association with" as opposed to descriptions such as "brought to you by" or "with compliments of".

6. Effective date

- 6.1 These regulations, insofar as they relate to advertisements, shall take effect on 1 April 1999 provided that, until 1 October 1999, commercial features shall be deemed not to constitute advertisements.

6.2 These regulations, insofar as they relate to infomercials and programme sponsorship, shall take effect on 1 April 2000.

7. Short title

These regulations may be cited as the **Independent Broadcasting Authority (Advertising, Infomercials and Programme Sponsorship) Regulations, 1999.**

INDEPENDENT BROADCASTING AUTHORITY ACT 153 OF 1993

INDEPENDENT BROADCASTING AUTHORITY (1999 GENERAL ELECTIONS) REGULATIONS, 1999

REGULATIONS AND GUIDELINES RELATING TO PARTY ELECTION BROADCASTS AND POLITICAL ADVERTISEMENTS DURING THE ELECTION PERIOD FOR THE 1999 GENERAL ELECTIONS

Published under Government Notice R427 in *Government Gazette* 19922 of 1 April 1999.

The Independent Broadcasting Authority, has under [section 78](#)(1) of the Independent Broadcasting Authority Act No. 153 of 1993, as amended, made the regulations in the Schedule.

- [1. Definitions](#)
- [2. Interpretation](#)
- [3. General provisions in respect of advertisements and election broadcasts](#)
- [4. Specific provisions in respect of election broadcasts](#)
- [5. Allocation of air-time in respect of election broadcasts](#)
- [6. Mediation](#)
- [7. General](#)
- [8. Short title](#)

[ANNEXURES](#)

SCHEDULE

1. Definitions

In these regulations, any word or expression to which a meaning has been assigned in the Act shall bear such meaning and, unless the context indicates otherwise:

- 1.1 “Act” means the Independent Broadcasting Authority Act, No. 153 of 1993;
- 1.2 “advertisement” means a political advertisement as defined in the Act;
- 1.3 “Authority” means the Independent Broadcasting Authority established by [Section 3](#) of the Act;
- 1.4 “BMCC” means the Broadcasting Monitoring & Complaints Committee referred to in [section 21](#)(1)(b) of the Act;
- 1.5 “broadcaster” means a person who provides a broadcasting service under and in accordance with a broadcasting licence issued to it by the Authority under Chapter VI of the Act, provided that:
 - 1.5.1 in respect of advertisements and election broadcasts, the word “broadcaster” shall not include any person who so provides a television broadcasting service; and

- 1.5.2 in the case of any broadcaster who is licensed to provide more than one broadcasting service, the word “broadcaster” shall refer to each such broadcasting service;
- 1.6 “Commission” means the Electoral Commission established by section 3 of the Electoral Commission Act;
- 1.7 “Constitution” means the Constitution of the Republic of South Africa, Act No. 106 of 1996;
- 1.8 “election broadcast” means a party election broadcast as defined in the Act;
- 1.9 “election broadcast period” means the period within which party election broadcasts may be transmitted; such period may not begin prior to the closing of the submission of the lists of candidates, as referred to in section 27 of the Electoral Act, and may not extend beyond 48 hours of the polling day;
- 1.10 “election period” means the period as defined in [Section 1](#) of the Act.
- 1.11 “Electoral Act” means the Electoral Act, No. 73 of 1998;
- 1.12 “Electoral Code” means the Electoral Code of Conduct set out in Schedule 2 of the Electoral Act;
- 1.13 “Electoral Commission Act” means the Electoral Commission Act, No 51 of 1996:
- 1.14 “news or current affairs programme” means a programme transmitted by a broadcaster in which it reports on news events or which focuses on, or includes comment on or interpretation or analysis of, issues of social, political or economic relevance or matters of international, national, regional or local significance;
- 1.15 “party” means a political party registered in terms of section 15 of the Electoral Commission Act, or any alliance of such registered political parties, that has nominated candidates and submitted a list or lists of those candidates in accordance with section 27 of the Electoral Act, and includes any organisation that, group of people which, or person who, acts in support of such a registered political party;
- 1.16 “polling day” means the day proclaimed by the President in terms of section 49 (2) of the Constitution, as read with section 17 of the Electoral Act, as being the day on which voting for the National Assembly will take place;
- 1.17 “prime time” means the periods set out in Annexure “A”;
- 1.18 “SABC” means the South African Broadcasting Corporation;

2. Interpretation

Every person interpreting or applying these Regulations shall do so in a manner that is consistent with, gives effect to and takes into account the provisions of the Constitution, the Act and the Electoral Code.

3. General provisions in respect of advertisements and election broadcasts

- 3.1 Any party that wishes to have an advertisement or an election broadcast transmitted by a broadcaster shall submit that advertisement or election broadcast to the broadcaster concerned:
- 3.1.1 in a form and manner that complies with that broadcaster's technical standards acceptable to that broadcaster;
 - 3.1.2 in completed form, ready for broadcast; and
 - 3.1.3 at least 96 hours before the time when that advertisement or election broadcast is to be transmitted.

Every broadcaster, other than the SABC, must indicate to the Authority whether or not it will transmit election broadcasts by not later than 31 March 1999.

- 3.3 Every broadcaster that is required, or intends, to transmit advertisements or election broadcasts shall, by no later than 31 March 1999, notify the Authority in writing of its technical standards as broadcaster's technical standards are unreasonable, the Authority shall notify that broadcaster accordingly in writing and shall direct that broadcaster to amend its technical standards.
- 3.4 Every advertisement or election broadcast submitted by a party to a broadcaster for transmission shall be prepared by, or at the instance and request of, that party.
- 3.5 No broadcaster to whom an advertisement or election broadcast has been submitted by a party shall in any way edit or alter that advertisement or election broadcast, whether before or after transmission.
- 3.6 Every broadcaster to whom an advertisement or election broadcast has been submitted by a party for transmission shall be entitled to reject and refuse to transmit that advertisement or election broadcast if it does not comply with the broadcaster's reasonable technical standards, with these Regulations, the Act or with the Electoral Code.
- 3.7 Any broadcaster who rejects any advertisement or election broadcast submitted to it by a party for transmission shall, within 24 hours of such submission:
- 3.7.1 furnish the party that submitted the advertisement or election broadcast concerned to that broadcaster with written reasons for such rejection, and that party shall be entitled to alter or edit the advertisement or election broadcast and again submit it to the broadcaster concerned at least 24 hours before the time when it is to be transmitted;
 - 3.7.2 in the event of the broadcaster rejecting an altered or edited advertisement or election broadcast in terms of Regulation 3.7.1, notify the Authority of such rejection by furnishing the Authority with a copy of the written reasons given for that rejection.
 - 3.7.3 any party whose election broadcast has been rejected by a broadcaster under this regulation may refer the matter to the Authority in terms of Regulation 6.

- 3.8 A party that submits an advertisement or election broadcast to a broadcaster for transmission shall ensure that the advertisement or election broadcast does not:
- 3.8.1 contravene the provisions of item 9 of the Electoral Code; or
 - 3.8.2 contain any material that is calculated, or that in the ordinary course of things is likely, to provoke or incite any unlawful, illegal or criminal act, or that may be perceived as condoning or lending support to any such act.
- 3.9 Neither any party. that submits an advertisement or an election broadcast to a broadcaster for transmission, nor any member or official of any such party, shall have any claim against that broadcaster arising from the transmission by it of that advertisement or election broadcast.
- 3.10 Every party that submits an advertisement or an election broadcast to a broadcaster for transmission shall be deemed to have indemnified that broadcaster against any cost, damage or loss incurred or sustained by that broadcaster as a result of any claim which a third party may bring against it arising from the transmission of that advertisement or election broadcast by that broadcaster.
- 3.11 Neither any party, nor any member or official of any party, shall have any claim against a broadcaster arising from the transmission by that broadcaster of any advertisement or election broadcast.
- 3.12 No advertisements or election broadcasts may be transmitted after the end of the election broadcast period.

4. Specific provisions in respect of election broadcasts

- 4.1 Election broadcasts may only be transmitted during the election broadcast period.
- 4.2 Every broadcaster who transmits election broadcasts shall:
- 4.2.1 make available, on every day throughout the election broadcast period four time-slots of two minutes each for the transmission of election broadcasts, provided that the Authority shall be entitled to prescribe by regulation an increased number of daily time slots for the transmission of election broadcasts;
 - 4.2.2 do so in accordance with the sequence and timing prescribed by the Authority in terms of Regulation 5;
 - 4.2.3 ensure that all election broadcasts transmitted by it are clearly identified as election broadcasts;
 - 4.2.4 ensure that all election broadcasts transmitted by it are identified or announced in a similar manner both at their introduction and at their conclusion,

- 4.3 No single election broadcast transmitted by a broadcaster shall exceed two minutes in duration.
- 4.4 No broadcaster may transmit an election broadcast immediately before or after another election broadcast or immediately before or after an advertisement.
- 4.5 No party shall be obliged to use the air-time allocated to it in terms of Regulation 5 for the transmission of election broadcasts, provided that:
 - 4.5.1 any air-time allocated to but not used by a party shall be forfeited;
 - 4.5.2 if any party does not wish to use any air-time allocated to it, such air-time shall not be allocated to another party but shall be used by the broadcaster concerned for the purpose of transmitting conventional programming or material;
 - 4.5.3 if any party does not wish to use any air-time allocated to it, the broadcaster concerned shall not, during the relevant time-slot, transmit any advertisement or election broadcast previously transmitted on behalf of that party, or in any way vary the sequence or scheduling of election broadcast transmissions determined in accordance with these Regulations.
- 4.6 Neither any broadcaster nor any party shall permit or engage in any interference with, or trading in, the sequence or scheduling of election broadcast transmissions determined in accordance with these Regulations.

5. Allocation of air-time in respect of election broadcasts

- 5.1 Air-time in respect of election broadcasts shall be allocated by the Authority to the various parties contesting the national and provincial elections on the basis of the respective formulae set out in Annexure B,
- 5.2 The Authority shall, as soon as may be reasonably practicable, after the date referred to in section 27(1) of the Electoral Act, publish a notice setting out the air-time allocation in respect of election broadcasts.
- 5.3 Once the submissions of-lists of candidates has been closed under section 27 of the Electoral Act the Authority shall;
 - 5.3.1 determine the sequence in which election broadcasts are to be transmitted for the entire election broadcast period;
 - 5.3.2 notify the broadcasters concerned in writing of such sequence.
- 5.4 The determination which is to be made by the Authority in terms of Regulation 5.3 shall be made:
 - 5.4.1 by the drawing of lots;
 - 5.4.2 in the presence of an official of the Commission designated by the Commission for that purpose.

- 5.5 The Authority shall notify the representatives referred to in Regulation 7.1 of the time when and place where the determination referred to in Regulation 5.3 will be made, and such representatives shall be entitled to be present when such determination is made.

6. Mediation

- 6.1 In the event of a broadcaster rejecting or refusing to transmit any advertisement or election broadcast submitted to it by a party for transmission, the party may:
- 6.1.1 refer the matter to the Authority in writing within 24 hours of being notified by the broadcaster of such rejection and the Authority shall attempt to resolve the matter in any manner it may consider appropriate;
 - 6.1.2 in the event of the Authority being unable to resolve a matter in terms of Regulation 6.1.1 it shall refer the matter to the BMCC and the BMCC shall deal with the matter in accordance with any procedure which the BMCC may consider appropriate,
- 6.2 In the event of any dispute arising between any party and any broadcaster, in respect of any matter governed by these Regulations, or in the event of any person being aggrieved by any act performed by any person in terms of these Regulations, or in the event of any dispute arising regarding the interpretation or application of these Regulations, any person who has a material interest in the matter shall be entitled to refer the matter to the Authority within 24 hours of the dispute or grievance arising.
- 6.2.1 the Authority shall attempt to resolve the dispute or grievance in any manner it may consider appropriate;
 - 6.2.2 in the event of the Authority being unable to resolve a matter in terms of Regulation 6.2.1 it shall refer the matter to the BMCC and the BMCC shall deal with the matter in accordance with any procedure which the BMCC may consider appropriate.
- 6.3 No person may seek relief in a court of law in respect of any rejection, dispute or grievance arising from the interpretation or application of these regulations unless the applicable procedures set out in these Regulations have been exhausted.

7. General

- 7.1 Every broadcaster and every party shall:
- 7.1.1 nominate a person who shall be the representative of that broadcaster or party in respect of all matters regulated by, or arising from, these Regulations;
 - 7.1.2 by no later than 9 April 1999 notify the Authority in writing of the name, physical and postal address, telephone number and, where available, cellular phone number and e-mail address of that person.

- 7.2 The chief executive officer, news and current affairs director, head of sales and marketing and programme manager (or the persons occupying similar positions or responsible for performing the functions normally performed by persons occupying those positions) of every broadcaster shall take reasonable steps to ensure compliance by that broadcaster with these Regulations to the extent that they may be applicable to that broadcaster.
- 7.3 Every broadcaster who transmits news or current affairs programmes in respect of the elections shall do so in an impartial and objective manner and in a manner which, treats all parties fairly. In complying with this obligation, broadcasters should have regard to the guidelines set out in Annexure C.
- 7.4 Any person who contravenes or fails to comply with these regulations shall be guilty of an offence.

8. Short title

These regulations may be cited as the Independent Broadcasting Authority (1999 General Elections) Regulations, 1999.

ANNEXURES

[Annexure A: List of regional and national SABC stations as well as their prime listenership times.](#)

[Annexure B: Formulae for airtime allocation in respect of election broadcasts](#)

[Annexure C: Guidelines for broadcasters](#)

ANNEXURE A

LIST OF REGIONAL AND NATIONAL STATIONS AS WELL AS THEIR PRIME LISTENERSHIP TIMES

1. REGIONAL BREAKDOWN OF SABC RADIO STATIONS

GAUTENG
RADIO SONDERGREENSE (AFRIKAANS STEREO) SAFM RADIO 2000 UKHOZI FM (ZULU) IKWEKWEZI FM (NDEBELE) UMHLOBO WENENE FM (XHOSA) LIGWALAGWALA FM (SWAZI) THOBELA FM (LEBOWA) RADIO MOTSWEDING PHALAPHALA FM (VENDA) LESEDI FM (SESOTHO) RADIO METRO RADIO 5 RADIO LOTUS MUNGHANA LONANE FM (TSONGA)
NORTHERN PROVINCE
RADIO.SONDERGREENSE SAFM RADIO 5FM IKWEKWEZI FM (NDEBELE) RADIO METRO THOBELA FM (LEBOWA) RADIO 2000 RADIO MOTSWEDING MUNGHANA LONANE FM (TSONGA) PHALAPHALA FM (VENDA)
EASTERN CAPE
RADIO SONDERGREENSE SAFM RADIO 2000 UMHLOBO WENENE FM (XHOSA) MOTSWEDING FM 5FM LESEDI FM (SESOTHO) METRO TBCC RADIO CISKE1

NORTHERN CAPE

RADIO SONDERGREENSE
SAFM
RADIO 2000
UMHLOBO WENENE FM (XHOSA)
MOTSWEDING FM
5FM

KWAZULU-NATAL

RADIO SONDERGREENSE
SAFM
RADIO 2000
UMHLOBO WENENE FM (XHOSA)
5FM
LESEDI FM (SESOTHO)
METRO
TBCC
RADIO LOTUS
UKHOZI FM (ZULU)

NORTH WEST

RADIO SONDERGREENSE
SAFM
RADIO 2000
RADIO MOTSWEDING
UMHLOBO WENENE FM (XHOSA)

MPUMALANGA

RADIO SONDERGREENSE
SAFM
RADIO 2000
UKHOZI FM (ZULU)
IKWEKWEZI FM (NDEBELE)
LIGWALAGWALA FM (SWAZI)
RADIO 5FM
RADIO METRO
THOBELA FM (LEBOWA)
RADIO LOTUS
RADIO BOP
LESEDI FM (SESOTHO)
MUNGHANA LONANE FM (TSONGA)

WESTERN CAPE

GOOD HOPE STEREO
RADIO SONDERGREENSE
SAFM
RADIO 2000
UMHLOBO WENENE FM (XHOSA)
RADIO 5
METRO
RADIO LOTUS

FREE STATE

RADIO SONDERGREENSE (AFRIKAANS STEREO)
SAFM
RADIO LESIDI FM (SESOTHO)
RADIO 5FM
RADIO METRO
RADIO 2000
RADIO UKHOZI FM (ZULU)
RADIO LEBOWA UMHLOBO WENENE FM (XHOZA)
RADIO MOTSWEDING

2. SABC RADIO STATIONS' PRIME LISTENERSHIP TIMES¹

¹

Source: SAARF Radio Audience Measurement Survey of November 1998

ALL SABC RADIO STATIONS**PRIME TIME**

	WEEKDAYS	WEEKENDS
RADIO SONDERGREENSE (AFRIKAANS STEREO)	06H00-09H00 12H00-16H00	06H00-09H00
SAFM	06H00-09H00	06H00-12H00
RADIO 2000	05H00-09H00 15H00-18H00	15H00-17H00
UKHOZI FM (ZULU)	05H00-9H00 15H00-18H00	05H00-09H00 15H00-18H00
IKWEKWEZI FM (NDEBELE)	05H00-09H00 12H00-15H00	05H00-12H00
UMHLOBO WENENE FM (XHOSA)	05H00-09H00 15H00-18H00	05H00-12H00
LIGWALAGWALA FM (SWAZI)	06H00-12H00	05H00-09H00
THOBELA FM (LEBOWA)	05H00-12H00	06H00-12H00
RADIO MOTSWEDING	05H00-09H00 18H00-21H00	05H00-12H00
PHALAPHALA FM (VENDA)	05H00-09H00 12H00-15H00	05H00-12H00
LESEDI FM (SESOTHO)	06H00-12H00	05H00-12H00
RADIO METRO	06H00-12H00	06H00-15H00
RADIO 5	06H00-12H00	10H00-14H00
RADIO LOTUS	06H00-12H00	06H00-12H00
MUNGHANA LONANE FM (TSONGA)	12H00-18H00	05H00-12H00
GOOD HOPE FM	09H00-15H00	09H00-12H00

3. NATIONAL RADIO STATIONS

Due to their availability in all nine provinces the following SABC radio stations are regarded as national broadcasters:

RADIO SONDERGREENSE

SAFM

RADIO METRO

5 FM

RADIO 2000

4. OTHER BROADCASTERS

Community and Private/ Commercial broadcasters can elect whether to broadcast political adverts and party election broadcasts. A list of these stations will be made available to all political parties as soon as these broadcasters have indicated their intentions.

ANNEXURE B

NATIONAL AND REGIONAL STATIONS FORMULAE TO CALCULATE THE ALLOCATION OF PARTY ELECTION BROADCASTS

INTRODUCTION

The Independent Broadcasting Authority has exclusive responsibility for allocating to contesting political parties party election broadcasts on public broadcast radio stations and on any other stations choosing to broadcast party election broadcasts.

The Act directs the Authority to ensure contesting parties are treated equitably. Equitable treatment is defined in South African law and international precedent as fair.

In keeping with the general principle of equitability and in recognition of the fact that the interests of the South African public are paramount, the Authority has adopted the international convention that the public is entitled to hear more from and about political parties more likely to influence policy decisions affecting the electorate, nationally and provincially.

In terms of this principle and international practice, parties likely to contribute to policy decisions affecting South Africans directly either as, or as part of, national and provincial governments, or as official oppositions in these forums will thus be allocated more Party Election Broadcasts than those unlikely to play these roles.

To achieve this the Authority has adapted the formula used to allocate Party Election Broadcasts in the 1994 elections to take account of the fact that most political parties have an historical track record of parliamentary representation.

Three factors have been taken into account when developing the formula by which parties will be allocated Party Election Broadcast slots:

- • The need for all parties to be heard by voters who could vote for them.

This factor serves as a numerical filter, to ensure that the electorate is afforded an opportunity to hear all parties potentially exercising influence in policy decisions affecting their lives.

This factor serves to limit the time differential between parties occupying and contesting a large number of seats and those contesting fewer seats.

- • Historical record - current seats in national parliament and provincial legislatures
- • The number of seats parties are contesting nationally and provincially

In developing the formula for allocating Party Election Broadcasts, the Authority has taken account of the fact that South African radio stations cover different provincial legislative areas.

All national stations, covering all nine provincial legislative areas, will thus be required to carry Party Election Broadcasts from parties contesting national assembly seats, and from parties contesting seats in any or all of the provincial legislatures.

Party Election Broadcasts are allocated on a points system, with points accruing to each party on the basis of a minimum and equal allocation to all parties contesting the election, its historical record, and the number of seats it is contesting.

The maximum number of points will be secured by a party contesting all national assembly seats, both national and provincial lists, and all seats in all nine provinces and with a strong 1994 performance.

National Party Election Broadcast points are allocated in direct proportion to the number of national list National Assembly seats contested and the number of provincial list National Assembly seats contested.

Provincial Party Election Broadcast points are allocated on a sliding scale, depending on the number of provinces in which a party is contesting seats, and the number of seats contested in each province.

Fairness requires that the differential between new, untested parties and established parties is relatively low. The basic, equal allocation to all parties is thus relatively large, accounting for approximately a quarter of the optimum number of points available to a party.

Party Election Broadcast allocation will be calculated only once registration of political parties and candidates has been closed.

The Authority can in its discretion consider using of recent public opinion polls and other such factors as it may deem necessary in order to determine Party Election Broadcast allocation. In keeping with its commitment to transparency, the Authority shall make known to participating parties and the general public what additional factors it has taken into account.

National Stations' Formula

Basic Allocation

All parties contesting seats in the National Assembly.

20 points

Number of Seats Currently Held

Based on current seats in the National Assembly pro rata, or on opinion polls or on any other factor that the Authority may deem necessary.

35 points

National Allocation List

Based on the number of candidates fielded by a party on the national assembly list, with 200 securing 15 points and those fielding fewer candidates securing points on a pro rata basis.

15 points

National Assembly Regional List Allocation

Based on the number of candidates fielded by a party on the national assembly's regional list, with 200 securing 15 points and those fielding fewer candidates securing points on a pro rata basis.

15 points

Provincial List Allocation

Based on the number of provincial legislature candidates fielded by each party throughout the country, with a party fielding the maximum securing 15 points and parties fielding fewer candidates securing points on a pro rata basis.

15 points

Regional -Stations” Formula

Basic Allocation

All the parties contesting seats in the National Assembly.

20 points

Number of seats currently held

Based on current seats in the National Assembly and in the relevant provincial legislatures pro rata, and on any opinion polls or on any other factor that the Authority may deem necessary.

35 points

National Assembly Allocation List

Based on the number of candidates fielded by a party on the national assembly list, with 200 candidates securing 15 points and those fielding fewer candidates securing points on a pro rata basis.

15 points

National Assembly's Regional List Allocation

Based on the number of candidates fielded by a party on the national assembly's regional list, with 200 candidates securing 15 points and those fielding fewer candidates securing points on a pro rata basis.

15 points

Provincial List

Based on the number of provincial legislature candidates fielded by each party throughout the country, with parties fielding the maximum securing 15 points and parties fielding fewer candidates securing points on a pro rata basis.

15 points

ANNEXURE C

GUIDELINES

1. INTRODUCTION

These guidelines are intended to outline a general approach that should be adopted by broadcasting licensees in their coverage of the 1999 general elections. General elections are an important public event and they clearly fall within the area of news and current affairs. Broadcasting licensees are encouraged, in the public interest, to provide a full, impartial, and independent coverage of the elections.

The Authority does not intervene in the news and programming operations of the broadcasters. Broadcasters' role during elections does not differ from their normal journalistic role during non-election periods. Normal ethical considerations will continue to apply. A distinguishing feature of the election period is the obligation to achieve equitable coverage of political parties without abdicating news value judgements.

2. EDITORIAL MATTERS

[Section 61](#) of the Act lays down specific requirements for the treatment of political parties during the election period by broadcasters in their editorial programming. The requirements are:

- (1) If, during an election period, the coverage of any broadcasting service extends to the field of elections, political parties and issues relevant thereto, the broadcasting licensee concerned shall afford reasonable opportunities for the discussion of conflicting views and shall treat all political parties equitably.
- (2) In the event of any criticism against a political party being leveled in a particular programme of any broadcasting service without such party having been afforded an opportunity to respond thereto in such programme or without the view of such political party having been reflected therein, the broadcasting licensee concerned shall be obliged to afford such a party a reasonable opportunity to respond to criticism.
- (3) If, within 48 hours before the commencement of the polling period or during the polling period, a broadcasting licensee intends broadcasting a programme in which a particular political party is criticized, the licensee shall ensure that the political party is given a reasonable opportunity to respond thereto in the same programme, or to do so as soon as reasonably practicable thereafter`.

The Authority advises broadcasters to take special care during the final 48 hours prior to election day. There will be limited time for broadcasters to ensure that political parties' right of reply is honoured during this period. Broadcasters should, therefore, ensure that parties are given time to reply, should this be necessary, within the same programme during this period.

3. Equitable Treatment

Four principles of equitability:

3.1.1 Equitable treatment does not mean equal treatment

The Authority will not expect broadcasting services to distort their news values and processes by giving the same weight to small or one-person parties as they do to serious contenders for a place in national or provincial government.

3.1.2 Equitable treatment means fair treatment

Each broadcasting service will be expected to treat parties fairly. Equitable treatment is unlikely to be achieved in a single programme but can be achieved in a series of programmes.

3.1.3 Each broadcast service should be consistent in its treatment of contesting parties

Each broadcasting service should be consistent in its treatment of contesting parties and of conflicting views.

3.1.4 Broadcasters must seek out information.

Broadcasters should recognise their obligation-to the electorate to provide a full and accurate record of events and developments. Broadcasters should not rely on political parties to bring information to them, but should actively seek out information. Failure to do so will give parties with greater resources inequitable amounts of news coverage.

3.2 Principles to be adhered to:

To further assist broadcasters in fulfilling the requirements of the Act the following principles will apply:

3.2.1 Fairness

- All news coverage should be fair to all interests concerned;
- Care should be taken to balance the exposure given to the non-political activities of candidates (such as attendance at functions, sporting events etc).
- All parties should receive equitable treatment on current affairs programmes. If the programme intends to feature party representatives, parties contesting the elections must be invited, with reasonable notice, to participate either in the same programme or in a series of programmes.
- The requirement that broadcasters give an opportunity for conflicting views to be heard should not be interpreted as a requirement that all parties be heard on any subject, only that all views be heard. Nor is it a requirement that all views be heard on the same programme.

3.2.2 The right of reply to broadcast criticism

Each broadcaster should afford all political parties reasonable opportunity to respond to criticism broadcast by that broadcaster. However, affording parties reasonable time to respond should not amount to forcing broadcasters to turn their editorial programmes into a series of replies and replies-to-replies.

There should be a distinction between demands for the right to reply to mild or rhetorical criticism, which properly forms part of the cut and thrust of robust political contest; and demands for the right to reply to criticisms which result in clear and immediate damage to a political party.

With regard to rhetorical criticisms, broadcasters must have the flexibility to incorporate responses into their formal news patterns. With regard to damaging criticisms, broadcasters should give the offended party an opportunity to respond. The party should be afforded the earliest and most appropriate opportunity to do so. Broadcasters should, however, not allow political parties to use their right to reply to criticism to manipulate or distort the general principle of equitability.

3.2.3 Coverage of government

During the election period, broadcasters must recognise that government officials are in a position to use their incumbency to advance their electoral prospects.

During the election period, broadcasters should regard with particular caution any statement or action by an official of an incumbent party. In particular, broadcasters need to ensure that, during the election period, they do not afford the policies of incumbent parties greater legitimacy than they would afford those policies or actions if the party were not in government.

3.2.4 Civil servants

No action or statement by any civil servant should benefit or prejudice any political party.

3.2.5 Coverage of non-participating organisations

In providing reasonable opportunity for the discussion of conflicting views, non-participating political parties and organisations affiliated to alliances should not be excluded from debates and

news bulletins. They should be included in terms of normal journalistic practice - when the topic is one in which they have a material interest. However, they should not be included with such frequency that they distort the general principle of equitability between registered, contesting parties.

3.2.6 Coverage of election results

Broadcasters, particularly the public broadcaster, have an obligation to inform the electorate of the election results, as they become available. Coverage of election results may also include comment, analysis and interpretation. Special care should be taken to ensure the accuracy of all results broadcast.

CONCLUSION

The guidelines in essence therefore will provide a framework to broadcasters covering the elections within which the system of Party Election Broadcasts and political advertising will operate.

INDEPENDENT BROADCASTING AUTHORITY ACT 153 OF 1993

TELEVISION TECHNICAL REGULATIONS

Published under General Notice 2300 in *Government Gazette* 20523 of 8 October 1999.

The Independent Broadcasting Authority hereby publishes its Television Technical Regulations. These regulations were made in terms of [section 78\(1\)\(A\)](#) of the Independent Broadcasting Authority Act (Act No. 153 of 1993), as amended. The regulations are as contained in the schedule.

SCHEDULE

TELEVISION TECHNICAL REGULATIONS

1. [Definitions](#)
2. [Television broadcasting services frequency bands](#)
3. [Technical standards and transmission characteristics for television broadcasting](#)
4. [Table of transmitter frequency tolerances](#)
5. [Table of maximum permitted spurious emission power level](#)
6. [Designation of emission](#)
7. [Maximum effective radiated power \(erp\)](#)
8. [Modulation standards, emission bandwidth characteristics of the radiated signals](#)
9. [The technical specifications contained in the national standard for terrestrial television transmissions \(SABS 1584\) shall be incorporated herein and shall be applicable to all vhf/uhf terrestrial television broadcasting services.](#)

1. DEFINITIONS

For the purposes of these regulations the following terms shall have the meanings defined below. The meanings are consistent for the definitions as contained in the Independent Broadcasting Authority Act 1993 and the International Telecommunication Union Radio Regulations 1992.

- 1.1 Act - the Independent Broadcasting Authority Act 1993
- 1.2 Assigned Frequency - the centre of the frequency band assigned to a station
- 1.3 Authority - the Independent Broadcasting Authority
- 1.4 Broadcasting - any form of unidirectional telecommunication intended for direct reception by the public or sections of the public or subscribers to any broadcasting service having appropriate receiving facilities whether they carried out by means of radio or any other means of telecommunication or any combination of the above mentioned.
- 1.5 Broadcasting Service - a single defined service which consists in the broadcasting of television or sound material to the public or sections of the public or to the subscribers to such service.
- 1.6 Broadcasting Services Frequency Bands - that part of the electromagnetic radio frequency spectrum which is assigned for the use of broadcasting services by the International Telecommunication Union in so far such assignments have been agreed to/adopted by the Republic as well as any other additional part of the radio frequency spectrum determined nationally for the use of broadcasting services.
- 1.7 Coverage Area - the area within which the field strength of the wanted transmitter is equal to or greater than the usable field strength.
(See table at end of Annexure)
- 1.8 Effective Radiated Power - the product of the power supplied to the antenna and its gain relative to a half wave dipole in a given direction.

- 1.9 Emission - radiation produced or the production of radiation by a radio transmitting station.
- 1.10 Frequency Tolerance - the maximum permissible departure by the centre frequency of the frequency band occupied by an emission from the assigned frequency.
- 1.11 Gain of an Antenna - the ratio expressed in decibels of the power required at the input of a loss free reference antenna to the power supplied to the input of the given antenna to produce in a given direction the same field strength.
- 1.12 Licensee - the holder of any licence granted and issued under the Act.
- 1.13 Necessary bandwidth - for a given class of emission the width of the frequency band which is just sufficient to ensure the transmission of information at the rate and with the quality required under specified conditions.
- 1.14 Out of band emission - emission on a frequency or frequencies immediately outside the necessary bandwidth which results from a modulation process but excluding spurious emissions.
- 1.15 Power - whenever the power of the radio transmitter is referred to, it shall be expressed in one of the following forms according to the class of emission using the symbols indicated:

Peak envelope power	PX
Mean power	PY
Carrier power	PZ.

- 1.16 Peak envelope power of a radio transmitter - the average power supplied to the antenna transmission line by a transmitter during, one radio frequency cycle at the crest of the modulation envelope taken under normal operating conditions.
- 1.17 Mean power of a radio transmitter - the average power supplied to the antenna transmission line by a transmitter during an interval of time sufficiently long compared with the lowest frequency encountered in the modulation taken under normal operating conditions.
- 1.18 Carrier power of a radio transmitter - the average power supplied to the antenna transmission line by a transmitter during one radio frequency cycle taken under the condition of no modulation.
- 1.19 Radiation - the output flow of energy from any source in a form of radio waves.
- 1.20 Radio - an electromagnetic wave propagated in space without artificial guide and having by convention a frequency lower than 3 000 GHz.
- 1.21 Radiocommunication - telecommunication by means of radio waves.
- 1.22 Service Area - that part of the coverage area in which the licensee has the right to demand that agreed protection conditions be provided.
- 1.23 Signal Distribution - the whole or any part of the process whereby the output signal of the broadcasting service is taken from the point of origin being the point where such signal is made available in its final content format from where it is conveyed to any geographical broadcast target area whether it is transmitted by radio or other means of telecommunication for reception by subscribers or by the public or by sections of the public.
- 1.24 Spurious Emission - emission on a frequency or frequencies which are outside the necessary bandwidth and the level of which may be reduced without affecting the corresponding transmission of information. Spurious emissions include harmonic emission, parasitic emissions, intermodulation products and frequency conversion products but exclude out of band emissions.

- 1.25 Station - one or more transmitters or receivers or a combination of transmitters and receivers including the accessory equipment necessary at one location for carrying on a radio- communication service.
- 1.26 Telecommunication - any system or method of conveying signs, signals, sounds, communications or other information by means of electricity, magnetism, electromagnetic waves or any agency of a like nature whether with or without the aid of tangible conductors from one point to another.
- 1.27 Television Broadcasting Service - a broadcasting service consisting in the sending of visual images or other visible signals whether with or without accompanying sounds where the visual images are such that sequences of them are seen as moving pictures.
- 1.28 Usable Field Strength - the minimum value of field strength necessary to permit a desired reception quality under specified receiving conditions in the presence of natural and man made noise and interference. A usable field strength value of 70 dBuV/m shall be used for the coverage contour in urban and/or densely populated areas and a usable field strength value of 60 dBuV/m in rural and/or sparsely populated areas.

2. TELEVISION BROADCASTING SERVICES FREQUENCY BANDS

The following spectrum is currently allocated to television broadcasting in South Africa.

- 2.1 Very high frequency television broadcasting (VHF) Band III:

174 MHz to 238 MHz
246 MHz to 254 MHz

- 2.2 Ultra high frequency television broadcasting (UHF) Band IV/V:

470 MHz to 854 MHz

3. TECHNICAL STANDARDS AND TRANSMISSION CHARACTERISTICS FOR TELEVISION BROADCASTING

The television system to be used in South Africa and CCIR System 1 with PAL Colour. A uniform channel spacing of 8MHz shall be used. In each channel the nominal vision carrier frequency is situated at 1.25MHz above the lower limit of the channel and the associated sound carrier frequency is higher than the vision carrier frequency

3.1 CHANNEL NUMBERING IN BAND III (174 - 238MHz AND 246 - 254MHz)

Channel No.	Channel Limits (MHz)	Vision Carrier Freq (MHz)
4	174- 182	175.25
5	182- 190	183.25
6	190- 198	191.25
7	198 - 206	199.25
8	206 - 214	207.25
9	214 - 222	215.25
10	222 - 230	223.25
11	230 - 238	231.25
13	246 - 254	247.43

The non standard vision carrier frequency for channel 13 has been chosen so that the vestigial side-band colour sub-carrier notch filter will give maximum protection to the international distress frequency of 243MHz.

3.2 CHANNEL NUMBERING IN BAND IV/V (470 - 854MHz)

CHANNEL NUMBERING	CHANNEL LIMITS (MHz)	NOMINAL VISION CARRIER FREQUENCY (MHz)
21	470 - 478	471.25
22	478 - 486	479.25
23	486 - 494	487.25
24	494 - 502	495.25
25	502 - 510	503.25
26	510 - 518	511.12
27	518 - 526	519.25
28	526- 534	527.25
29	534 - 542	535.25
30	542 - 550	543.25
31	550- 558	551.25
32	558 - 566	559.25
33	566 - 574	567.25
34	574 - 582	575.25
35	582- 590	583.25
36	590 - 598	591.25
37	598 - 606	599.25
38	606 - 614	607.25
39	616 - 622	615.25
40	622 - 630	623.25
41	630 - 638	631.25
42	638 - 646	639.25
43	646 - 654	647.25
44	654 - 662	655.25
45	662 - 670	663.25
46	670 - 678	671.25
47	678 - 686	679.25
48	686 - 694	687.25
49	694 - 702	695.25
50	702- 710	703.25
51	710 - 718	711.25
52	718 - 726	719.25
53	726 - 734	727.25
54	734 - 742	735.25
55	742 - 750	743.25
56	750- 758	751.25
57	758 - 766	759.25
58	766- 774	767.25
59	774 - 782	775.25
60	782 - 790	783.25
61	790- 798	791.25
62	798 - 806	799.25
63	806 - 814	807.25
64	814 - 822	815.25
65	822 - 830	823.25
66	830- 838	831.25

Two or more channels containing analogue information 8

Third symbol - type of information to be transmitted

Sound broadcasting	E
Television	F

Fourth symbol - details of signal(s)

Monophonic sound broadcasting	G
Stereophonic sound broadcasting	H
Colour television broadcasting	N

Fifth symbol - nature of multiplexing

None	N
Frequency division multiplex	F

For the full designation of an emission, the necessary bandwidth, indicated in four characters shall be added just before the classification symbols.

7. MAXIMUM EFFECTIVE RADIATED POWER (erp)

In principle, except in the frequency band 3 900 - 4 000kHz, broadcasting stations using frequencies below 5 060kHz or above 41MHz shall not employ power exceeding that necessary to maintain economically an effective national service of good quality within the frontiers of the country concerned (ITU RR2666)

VHF Television Band III	200kW
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UHF Television Band IV/V	500kW
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8. MODULATION STANDARDS, EMISSION BANDWIDTH CHARACTERISTICS OF THE RADIATED SIGNALS

Characteristics		
FREQUENCY SPACING	Nominal radio-frequency channel bandwidth (MHz)	8
	Sound carrier relative to vision carrier (Mhz)	+5.9996 ±0.0005
	Nearest edge of channel relative to vision carrier (Mhz)	-1.25
	Nominal width of main sideband (MHz)	5.5
	Nominal width of vestigial sideband (MHz)	1.25
Minimum attenuation of vestigial sideband (dB and MHz)		20 (-3.0) 30 (-4.43)
Type and polarity of vision modulations		C3F neg.
LEVELS IN THE RADIATED SIGNAL (% OF PEAK CARRIER)	Synchronizing level	100
	Blanking level	76 ± 2
	Difference between black level and blanking level	O (nominal)
	Peak white-level	20 ± 2
Type of sound modulation		F3E
Frequency deviation (kHz)		± 50
Pre-emphasis for modulation (us) l		50
Ratio of effective radiated powers of vision/sound		10/1
Line frequency f_H and tolerance when operated non-synchronously (Hz)		15 625 ± 0.0001 %

9. **THE TECHNICAL SPECIFICATIONS CONTAINED IN THE NATIONAL STANDARD FOR TERRESTRIAL TELEVISION TRANSMISSIONS (SABS 1584) SHALL BE INCORPORATED HEREIN AND SHALL BE APPLICABLE TO ALL VHF/UHF TERRESTRIAL TELEVISION BROADCASTING SERVICES.**

FIELDS STRENGTH VALUES FOR COVERAGE AREA PLANNING

FREQUENCY BAND	MINIMUM MEDIA FIELD STRENGTH BAND (dB _u V/m)		
	URBAN	SUBURBAN	RURAL
Band III	75	65	50
Band IV	80	72	62
Band V	80	76	67

INDEPENDENT BROADCASTING AUTHORITY ACT 153 OF 1993

REGULATIONS RELATING TO PARTY ELECTION BROADCASTS, POLITICAL ADVERTISEMENTS, THE EQUITABLE TREATMENT OF POLITICAL PARTIES BY BROADCASTERS LICENSEES AND RELATED MATTERS IN RESPECT OF THE 2000 LOCAL GOVERNMENT ELECTIONS

Published under General Notice 4146 in *Government Gazette* 21701 of 31 October 2000.

The Independent Communications Authority of South Africa (ICASA) has, under [Section 78\(1\)](#) of the Independent Broadcasting Act, 1993 (Act No. 153 of 1993), made the regulations in the schedule.

SCHEDULE

- [1. Definitions](#)
- [2. Interpretation](#)
- [3. General provision in respect of advertisements and election broadcasts](#)
- [4. Specific provisions in respect of election broadcasts](#)
- [5. Allocation of air-time in respect of election broadcasts](#)
- [6. Mediation](#)
- [7. General](#)
- [8. Short title](#)

[GUIDELINES](#)

[PUBLIC SOUND BROADCASTER \(SABC\)](#)

[LIST OF REGISTERED PARTIES \(PDF\)](#)

[REGISTERED POLITICAL PARTIES \(PDF\)](#)

[LIST OF REGISTERED PARTIES \(AS AT 4 OCTOBER 2000\) \(National\) \(PDF\)](#)

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1. Definitions

In these regulations, any word or expression to which a meaning has been assigned in the Act shall bear such meaning and, unless the context indicates otherwise:

- 1.1 “**Act**” means the Independent Broadcasting Authority Act, No. 153 of 1993;
- 1.2 “**advertisement**” means a political advertisement as defined in the Act; the Act;
- 1.3 “**Authority**” means the Independent Communications Authority of South Africa established by Section 3 of the Independent Communications Authority of South Africa Act of 2000;
- 1.4 “**BMCC**” means the Broadcasting Monitoring & Complaints Committee referred to in section 17 of the ICASA Act;
- 1.5 “**broadcaster**” means a person who provides a broadcasting service under and in accordance with a broadcasting license issued to it by the Authority under Chapter VI of the Act, provided that:
 - 1.5.1 in respect of advertisements and election broadcasts, the word “broadcaster” shall not include any person who so provides a television broadcasting service, and
 - 1.5.2 in the case of any broadcaster who is licensed to provide more than one broadcasting service, the word “broadcaster” shall refer to each such broadcasting service;
- 1.6 “**Commission**” means the Independent Electoral Commission established by [section 3](#) of the Electoral Commission Act;
- 1.7 “**Constitution**” means the Constitution of the Republic of South Africa, Act No. 108 of 1996;

- 1.8 **“election broadcast”** means a party election broadcast as defined in the Act;
- 1.9 **“election broadcast period”** means the period within which party election broadcasts may be transmitted; such period may not begin prior to the closing of the submission of the lists of candidates, as referred to in [section 27](#) of the Electoral Act, and may not extend beyond 48 hours of the polling day;
- 1.10 **“elections period”** means the period as defined in [Section 1](#) of the Act;
- 1.11 **“Electoral Act”** means the Electoral Act, No. 73 of 1998;
- 1.12 **“Electoral Code”** means the Electoral Code of Conduct set out in Schedule 2 of the Electoral Act;
- 1.13 **“Electoral Commission Act”** means the Electoral Commission Act, No 51 of 1996;
- 1.14 **“News or current affairs programme”** means a programme transmitted by a broadcaster in which it reports on news events or which focuses on, or includes comment on, or interpretation or analysis of, issues of social, political or economic relevance or matters of international, national, regional or local significance;
- 1.15 **“party”** means a political party registered in terms of [section 15](#) of the Electoral Commission Act, or any alliance of such registered political parties, that has nominated candidates and submitted a list or lists of those candidates in accordance with [section 27](#) of the Electoral Act, and includes any organisation that, group of people which, or person who, acts in support of such a registered political party;
- 1.16 **“polling day”** means the day proclaimed by the President in terms of section 49(2) of the Constitution, as read with section 17 of the Electoral Act, as being the day on which voting for local government will take place;
- 1.17 **“prime time”** means the periods set out in Annexure “A”;
- 1.18 **“SABC”** means the South African Broadcasting Corporation;

2. Interpretation

Every person interpreting or applying these Regulations shall do so in a manner that is consistent with, gives effect to and takes into account the provisions of the Constitution, the Act and the Electoral Code.

3. General provision in respect of advertisements and election broadcasts

- 3.1 Any party that wishes to have an advertisement or an election broadcast transmitted by a broadcaster shall submit that advertisement or election broadcast to the broadcaster concerned:
 - 3.1.1 in a form and manner that complies with that broadcaster's language requirements and technical standards acceptable to that broadcaster;
 - 3.1.2 in completed form, ready for broadcast; and
 - 3.1.3 at least 96 hours before the time when that advertisement or election broadcast is to be transmitted.

Only the SABC radio services are required to transmit election broadcasts.

- 3.3 Every broadcaster that is required, or intends, to transmit advertisements or election broadcasts shall, by no later than the date of publication hereof, notify the Authority in writing of its technical standards and language requirements as contemplated in Regulation

- 3.1.1. If the Authority is of the view that a broadcaster's technical standards are unreasonable, the Authority shall notify that broadcaster to amend its technical standards.
- 3.4 Every advertisement or election broadcast submitted by a party to a broadcaster for transmission shall be prepared by, or at the instance and request of, that party.
- 3.5 No broadcaster to whom an advertisement or election broadcast has been submitted by a party for transmission shall in any way edit or alter that advertisement or election broadcast, whether before or after transmission.
- 3.6 Every broadcaster to whom an advertisement or election broadcast has been submitted by a party shall be entitled to reject and refuse to transmit that advertisement or election broadcast if it does not comply with the broadcaster's reasonable technical standards, with these Regulations, the Act or with the Election Code.
- 3.7 Any broadcaster who rejects any advertisement or election broadcast submitted to it by a party for transmission shall, within 24 hours of such submission:
 - 3.7.1 furnish the party that submitted the advertisement or election broadcast concerned to that broadcaster with written reasons for such rejection, and that party shall be entitled to alter or edit the advertisement or election broadcast and again submit it to the broadcaster concerned at least 24 hours before the time when it is to be transmitted;
 - 3.7.2 in the event of the broadcaster rejecting an altered or edited advertisement or election broadcast in terms of Regulation 3.7.1, notify the Authority of such rejection by furnishing the Authority with a copy of the written reasons given for that rejection.
 - 3.7.3 any party whose election broadcast has been rejected by a broadcaster under this regulation may refer the matter to the Authority in terms of Regulation 6.
- 3.8 A party that submits an advertisement or election broadcast to a broadcaster for transmission shall ensure that the advertisement or election broadcast does not:
 - 3.8.1 contravene the provisions of item 9 of the Electoral Code; or
 - 3.8.2 contain any material that is calculated, or that in the ordinary course of things is likely, to provoke or incite any unlawful, illegal or criminal act, or that may be perceived as condoning or lending support to any such act.
- 3.9 Neither any party that submits an advertisement or an election broadcast to a broadcaster for transmission, nor any member or official of any such party, shall have any claim against that broadcaster arising from the transmission by it of that advertisement or election broadcast.
- 3.10 Every party that submits an advertisement or an election broadcast to a broadcaster for transmission shall be deemed to have indemnified that broadcaster against any cost, damage or loss incurred or sustained by that broadcaster as a result of any claim which a third party may bring against it arising from the transmission of that advertisement or election broadcast by that broadcaster.
- 3.11 Neither any party, nor any member or official of any party, shall have any claim against a broadcaster arising from the transmission by that broadcaster of any advertisement or election broadcast.
- 3.12 No advertisements or election broadcasts may be transmitted after the end of the election broadcast period (48 hours prior to the polling date).

4. Specific provisions in respect of election broadcasts

- 4.1 Election broadcasts may only be transmitted during the election broadcast period.

- 4.2 Every broadcaster who transmits election broadcasts shall:
- 4.2.1 make available, on every day throughout the election broadcast period four time-slots of one minute each for the transmission of election broadcasts, provided that the Authority shall be entitled to prescribe by regulation an increased number of daily time-slots for the transmission of election broadcasts;
 - 4.2.2 do so in accordance with the sequence and timing as submitted by the SABC and approved by the Authority in terms of Regulation 5;
 - 4.2.3 ensure that all broadcasts transmitted by it are clearly identified as election broadcasts;
 - 4.2.4 ensure that all election broadcasts transmitted by it are identified or announced in a similar manner both at their introduction and at their conclusion.
- 4.3 No single broadcast transmitted by a broadcaster shall exceed one minute in duration.
- 4.4 No broadcaster may transmit an election broadcast immediately before or after another election broadcast or immediately before or after a political advertisement.
- 4.5 No party shall be obliged to use the airtime allocated to it in terms of Regulation 5 for the transmission of election broadcasts, provided that:
- 4.5.1 any air-time allocated to but not used by a party shall be forfeited;
 - 4.5.2 if any party does not wish to use any air-time allocated to it, such air-time shall not be allocated to another party but shall be used by the broadcaster concerned for the purpose of transmitting conventional programming or material;
 - 4.5.3 if any party does not wish to use any air-time allocated to it, the broadcaster concerned shall not, during the relevant time-slot, transmit any advertisement or election broadcast previously transmitted on behalf of that party, or in any way vary the sequence or scheduling of election broadcast transmissions determined in accordance with these Regulations.
 - 4.5.4 Neither any broadcaster nor any party shall permit or engage in any interference with, or trading in, the sequence or scheduling of election broadcast transmissions determined in accordance with these Regulations.

5. Allocation of air-time in respect of election broadcasts

- 5.1 Each party contesting the local government elections shall be allocated an equal number of PEBs on all broadcasting services received in the region which the political party is contesting the elections.
- 5.2 PEB time allocated and the sequence of PEBs for parties contesting the elections as an alliance shall be done in terms of the alliance and not for the individual parties forming part of such an alliance;
- 5.3 Following the close of submissions on the Guidelines and Regulation for coverage of the 2000 Local Government Elections the Authority shall require;
- 5.3.1 the SABC to determine the sequence in which election broadcasts are to be transmitted for the entire election broadcast period;
 - 5.3.2 the SABC shall determine this by way of drawing lots;
 - 5.3.3 one lot shall be drawn per broadcaster to determine which party will have its PEB broadcast first on that broadcaster, the remainder of parties will follow in alphabetical order;

- 5.3.4 this process must be repeated for each broadcaster;
- 5.3.5 this process shall be open to all parties and ICASA observers to attend, the SABC shall submit the sequence, as determined by the process stipulated in Regulation 5.3.3 above, to the Authority for approval by no later than 3 November 2000.

6. Mediation

- 6.1 In the event of a broadcaster rejecting or refusing to transmit any advertisement or election broadcast submitted to it by a party for transmission, the party may:
 - 6.1.1 refer the matter to the Authority in writing to resolve a matter in terms of Regulation 6.1.1 it shall attempt to resolve the matter in any manner it may consider appropriate;
 - 6.1.2 in the event of the Authority being unable to resolve a matter in terms of Regulation 6.1.1 it shall refer the matter to the BMCC and the BMCC shall deal with the matter in accordance with any procedure which the BMCC may consider appropriate.
- 6.2 In the event of any dispute arising between any party and any broadcaster, in respect of any of any matter governed by the Regulations, or in the event of any person being aggrieved by any act performed by any person in terms of these Regulations, or in the event of any dispute arising regarding the interpretation or application of these Regulations, any person who has a material interest in the matter shall be entitled to refer the matter to the Authority within 24 hours of the dispute or grievance arising.
 - 6.2.1 the Authority shall attempt to resolve the dispute or grievance in any manner it may consider appropriate;
 - 6.2.2 in the event of the Authority being unable to resolve a matter in terms of Regulation 6.2.1 it shall refer the matter to the BMCC and the BMCC shall deal with the matter in accordance with any procedure which the BMCC may consider appropriate.

No person may seek relief in a court of law in respect of any rejection, dispute or grievance arising from the interpretation or application of these regulations unless the applicable procedures set out in these Regulations have been exhausted

7. General

Every broadcaster and every party shall:

- 7.1.1 nominate a person who shall be the representative of that broadcaster or party in respect of all matters regulated by, or arising from, these Regulations;
- 7.1.2 by no later than 3 November 2000 notify the Authority in writing of the name, physical and postal address, telephone number and, where available, cellular phone number and e-mail address of that person.
- 7.2 The chief executive officer, news and current 'affairs director, head of sales and marketing and programme manager (or the persons occupying similar positions or responsible for performing the functions normally performed by persons occupying those positions) of every broadcaster shall take reasonable steps to ensure compliance by that broadcaster with these Regulations to the extent that they may be applicable to that broadcaster.

Every broadcaster who transmits news or current affairs programmes in respect of the elections shall do so in an impartial and objective manner and in a manner which treats all parties fairly. In complying with this obligation, broadcasters should have regard to the guidelines set out in Annexure C

These regulations may be cited as the Independent Communications Authority (2000 Local Government Elections) Regulations, 2000.

GUIDELINES

1. INTRODUCTION

These guidelines are intended to outline a general approach that should be adopted by broadcasting licensees in their coverage of the 2000 Local Government Elections. Elections are an important public event and they clearly fall within the area of news and current affairs. Broadcasting licensees, are encouraged, in the public interest, to provide full, impartial, and independent coverage of the elections.

The Authority does not intervene in the news and programming operations of the broadcasters. Broadcasters' role during elections does not differ from their normal journalistic role during non-election periods. Normal ethical considerations will continue to apply. A distinguishing feature of the election period is the obligation to achieve equitable coverage of political parties without abdicating news value judgements.

2. EDITORIAL MATTERS

Section 61 of the Act lays down specific requirements for the treatment of political parties during the election period by broadcasters in their editorial programming. The requirements are:

“If, during an election period, the coverage of any broadcasting service extends to the field of elections, political parties and issues relevant thereto, the broadcasting licensee concerned shall afford reasonable opportunities for the discussion of conflicting views and shall treat all political parties equally. In the event of any criticism against a political party being leveled in a particular programme of any broadcasting service without such party having been afforded an opportunity to respond thereto in such programme or without the view of such political party having been reflected therein, the broadcasting licensee concerned shall be obliged to afford such a party a reasonable opportunity to respond to criticism. If, within 48 hours before the commencement of the polling period or during the polling period, a broadcasting licensee intends broadcasting a programme in which a particular party is criticized, the licensee shall ensure that the political party is given reasonable opportunity to respond thereto in the same programme, or to do so as soon as reasonably practicable thereafter”.

The Authority advises broadcasters to take special care during the final 48 hours prior to election day. There will be limited time for broadcasters to ensure that political parties' right of reply is honoured during this period. Broadcasters should, therefore, ensure that parties are given time to reply, should this be necessary, within the same programme during this period.

3. Equitable Treatment

Four principles of equitability:

3.1.1 Equitability treatment does not mean equal treatment

The Authority will not expect broadcasting services to distort their news values and processes by giving equal treatment to all political parties.

3.1.2 Equitable treatment means fair treatment

Each broadcasting service will be expected to treat parties fairly. Equitable treatment is unlikely to be achieved in a single programme but can be achieved in a series of programmes.

3.1.3 Each broadcast service should be consistent in its treatment of contesting parties

Each broadcasting service should be consistent in its treatment of contesting parties of conflicting views.

3.1.4 Broadcasters must seek out information.

Broadcasters should recognise their obligation to the electorate to provide a full and accurate record of events and developments. Broadcasters should not rely on political parties to bring information to them but should actively seek out information. Failure to do so will, give parties with greater resources inequitable amounts of news coverage.

3.2 Principles to be adhered to:

To further assist broadcasters in fulfilling the requirements of the Act the following principles will apply:

3.2.1 Fairness

- All news coverage should be fair to all interests concerned;
- Care should be taken to balance the exposure given to the non-political activities of candidates (such as attendance at functions, sporting events etc).
- All parties should receive equitable treatment on current affairs programmes. If the programme intends to feature party representatives, parties contesting the elections must be invited, with reasonable notice, to participate either in the same programme or in a series of programmes.
- The requirement that broadcasters give an opportunity for conflicting views to be heard should not be interpreted as a requirement that all parties be heard on any subject, only that all views be heard. Nor is it a requirement that all views be heard on the same programme.

3.2.2 The right of reply to broadcast criticism

Each broadcaster should afford all political parties reasonable opportunity to respond to criticism broadcast by the broadcaster. However, affording parties reasonable time to respond should not amount to forcing broadcasters to turn their editorial programmes into a series of replies to replies.

There should be a distinction between demands for the right to reply to mild or rhetorical criticism, which properly forms part of the cut and thrust of robust political contest; and demands for the right to reply to criticisms which result in clear and immediate damage to a political party. With regard to rhetorical criticisms, broadcasters must have the flexibility to incorporate responses into their formal news patterns. With regard to damaging criticisms, broadcasters should give the offended party an opportunity to respond. The party should be afforded the earliest and most appropriate opportunity to do so. Broadcasters should, however, not allow political parties to use their right to reply to criticism to manipulate or distort the general principle of equitability.

3.2.3 Coverage of government

During the election period, broadcasters must recognise that local government officials are in a position to use their incumbency to advance their electoral prospects.

During the election period, broadcasters should regard with particular caution any statement or action by an official of an incumbent party. In particular, broadcasters need to ensure that, during the election period, they do not afford the policies of incumbent parties greater legitimacy than they would afford those policies or actions if the party were not in local government.

3.2.4 Civil servants

No action or statement by any civil servant or local government official should benefit or prejudice any political party.

3.2.5 Coverage of non-participating organisations

In providing reasonable opportunity for the discussion of conflicting views, non-participating political parties and organisations affiliated to alliances should not be excluded from debates and news bulletins. They should be included in terms of normal journalistic practice - when the topic is one in which they have a material interest. However, they should not be included with such frequency that they distort the general principle of equitability between registered, contesting parties.

3.6 Coverage of election results

Broadcasters have an obligation to inform the electorate of the election results, as they come available. Coverage of election results may also include comment, analysis and interpretation. Special care should be taken to ensure the accuracy of all results broadcast.

PUBLIC SOUND BROADCASTER (SABC)

The following public broadcasting services are regarded as national services:

- SAFM
- RADIO 2000
- 5 FM
- RADIO METRO
- RADIO SONDER GREENSE

The following public sound services are regarded to be regional services:

- UKHOZI FM
- IKWEKWEZI FM
- UMHLOBO WENENE FM
- LIGWALAGWALA FM
- THOBELA FM
- MOTSWEDING FM
- PHALAPHALA FM
- LESEDI FM
- RADIO LOTUS
- MUNGHANA LONENE FM
- GOOD HOPE FM
- RADIO BOP
- RADIO SUNSHINE

INDEPENDENT BROADCASTING AUTHORITY ACT 153 OF 1993

NOTICE OF THE PUBLICATION OF THE REVISED CODE OF CONDUCT FOR BROADCASTERS

Published under General Notice 446 in *Government Gazette* 24394 of 14 February 2003.

The Independent Communications Authority of South Africa (the Authority) hereby, in accordance with [section 78](#)(1) of the Independent Broadcasting Authority Act (“the IBA Act”) 1993, as amended, publishes the revised “Code of Conduct for Broadcasters” which replaces [section 56](#) ([schedule 1](#)) of the IBA Act.

In 1999, the Authority decided to amend the Code of Conduct for broadcasters as it appears in Schedule 1 of the IBA Act. The Authority decided to revise the Code due to two reasons, namely;

- Some of the provisions of the present Code are not consistent with the Freedom of Expression provisions of the Constitution and need to be deleted or amended; and
- Some additional clauses are needed. For example, additional provisions on children are required.

The new Code of Conduct is underpinned by two elements;

1. There is a concept of adequate viewer and listener information. The Authority is of the view that within reason, audiences should be given the responsibility to choose what they wish to see or hear and what material they wish to avoid; and
2. The concept of sensitivity in scheduling. The Authority will require broadcasters to exercise due care in scheduling decisions, especially in relation to children.

The new Code of Conduct comes into effect on 04 February 2003 and applies to all broadcasters, regardless of their mode of delivery.

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Foreword

1. [Section 2](#) of the Independent Broadcasting Authority Act No. 153 of 1993 (“the Act”) enjoins the Independent Broadcasting Authority (“the Authority”) to ensure that broadcasting licensees adhere to a Code of Conduct acceptable to the Authority.
2. In terms of [section 56](#)(1) of the Act, “all broadcasting licensees shall adhere to the Code of Conduct for Broadcasting Services as set out in Schedule 1”. The provisions of that sub-section do not, however, apply to any broadcasting licensee “if he or she is a member of a body which has proved to the satisfaction of the Authority that its members subscribe and adhere to a Code of Conduct enforced by

that body by means of its own disciplinary mechanism, and provided that such Code of Conduct and disciplinary mechanisms are acceptable to the Authority”.

3. **Definitions**

“**audience**” as referred to in this Code means a visual and an aural audience i.e. both television and radio audiences.

“**broadcasts intended for adult audiences**” as referred to in this Code means broadcasts depicting excessive violence and explicit sexual conduct and shall exclude broadcasts intended for children.

“**children**” as referred to in this Code means those persons below 16 years.

“**watershed period**” as referred to in this Code means the period between 21h00 and 05h00. Such restriction applies only to television services.

PREAMBLE

4. Freedom of expression lies at the foundation of a democratic South Africa and is one of the basic pre-requisites for this country’s progress and the development in liberty of every person. Freedom of expression is a condition indispensable to the attainment of all other freedoms. The premium our Constitution attaches to freedom of expression is not novel, it is an article of faith, in the democracies of the kind we are venturing to create.

5. Constitutional protection is afforded to freedom of expression in [section 16](#) of the Constitution which provides:

“(1) Everyone has the right to freedom of expression which includes -

- (a) Freedom of the press and other media
- (b) Freedom to receive or impart information or ideas.
- (c) Freedom of artistic creativity; and
- (d) Academic freedom and freedom of scientific research.

(2) The right in sub-section (1) does not extend to -

- (a) Propaganda for war;
- (b) Incitement of imminent violence; or

- (c) Advocacy of hatred that is based on race, ethnicity, gender or religion, and that constitutes incitement to cause harm”.
6. Whilst in most democratic societies freedom of expression is recognised as being absolutely central to democracy, in no country is freedom of expression absolute. Like all rights freedom of expression is subject to limitation under section 36 of the Constitution.
 7. The outcome of disputes turning on the guarantee of freedom of expression will depend upon the value the courts are prepared to place on that freedom and the extent to which they will be inclined to subordinate other rights and interests to free expression. Rights of free expression will have to be weighed up against many other rights, including the rights to equality, dignity, privacy, political campaigning, fair trial, economic activity, workplace democracy, property and most significantly the rights of children and women.
 8. In the period prior to the transition to democracy, governmental processes neither required nor welcomed the adjuncts of free expression and critical discussion and our country did not treasure at its core a democratic ideal. The right to freedom of expression was regularly violated with impunity by the legislature and the executive. Therefore the protection of this right is of paramount importance now that South Africa is grappling with the process of purging itself of those laws and practices from our past which do not accord with the values which underpin the Constitution.

APPLICATION OF THE CODE

9. All licensees are required to ensure that all broadcasts comply with this Code and are further required to satisfy the Authority that they have adequate procedures to fulfil this requirement. All licensees should ensure that relevant employees and programme-makers, including those from whom they commission programmes, understand the Code’s contents and significance. All licensees should also have in place procedures for ensuring that programme-makers can seek guidance on the Code within the licensee’s organisation at a senior level.
10. While the Authority is responsible for drafting this Code of Conduct and for monitoring compliance therewith, independent producers or others supplying programme material should seek guidance on specific proposals from the relevant licensee.
11. Under the Act, the Authority has the power to impose sanctions, including fines, on licensees who do not comply with this Code of Conduct.
12. This Code does not attempt to cover the full range of programme matters with which the Authority and licensees are concerned. This is not because such matters are insignificant, but because they have not given rise to the need for Authority

guidance. The Code is therefore not a complete guide to good practice in every situation. Nor is it necessarily the last word on the matters to which it refers. Views and attitudes change, and any prescription for what is required of those who make and provide programmes may be incomplete and may sooner or later become outdated. The Code is subject to interpretation in the light of changing circumstances, and in some matters it may be necessary, from time to time, to introduce fresh requirements.

13. In drawing up this Code the Authority has taken into account the objectives of the Act and the urgent need in South Africa for the fundamental values which underlie our legal system to accommodate to the norms and principles which are embraced by our Constitution.

VIOLENCE

14. Licensees shall not broadcast any material which judged within context:

- (i) contains gratuitous violence in any form i.e. violence which does not play an integral role in developing the plot, character or theme of the material as a whole.
- (ii) sanctions, promotes or glamorizes violence.

15. Violence against women

Broadcasters shall:

- (i) not broadcast material which, judged within context, sanctions, promotes or glamorizes any aspect of violence against women;
- (ii) ensure that women are not depicted as victims of violence unless the violence is integral to the story being told;
- (iii) be particularly sensitive not to perpetuate the link between women in a sexual context and women as victims of violence.

16. Violence against specific groups

16.1 Licensees shall not broadcast material which, judged within context sanctions, promotes or glamorizes violence based on race, national or ethnic origin, colour, religion, gender, sexual orientation, age, or mental or physical disability.

16.2 Licensees are reminded generally of the possible dangers of some people imitating violence details of which they see, hear or read about.

17. The abovementioned prohibitions shall not apply to -

- (i) a bona fide scientific, documentary, dramatic, artistic, or religious broadcast, which judged within context, is of such nature;
- (ii) broadcasts which amount to discussion, argument or opinion on a matter pertaining to religion, belief or conscience; or
- (iii) broadcasts which amounts to a bona fide discussion, argument or opinion on a matter of public interest.

CHILDREN

- 18.** Broadcasters are reminded that children as defined in paragraph 3 above embraces a wide range of maturity and sophistication, and in interpreting this Code it is legitimate for licensees to distinguish, if appropriate, those approaching adulthood from a much younger, pre-teenage audience.
- 18.1 Broadcasters shall not broadcast material unsuitable for children at times when large numbers of children may be expected to be part of the audience.
- 18.2 Broadcasters shall exercise particular caution. As provided below, in the depiction of violence in children's programming.
- 18.3 In children's programming portrayed by real-life characters, violence shall, whether physical, verbal or emotional, only be portrayed when it is essential to the development of a character and plot.
- 18.4 Animated programming for children, while accepted as a stylised form of story-telling which can contain non-realistic violence, shall not have, violence as its central theme, and shall not invite dangerous imitation.
- 18.5 Programming for children shall with due care deal with themes which could threaten their sense of security, when portraying, for example, domestic conflict, death, crime or the use of drugs.
- 18.6 Programming for children shall with due care deal with themes which could invite children to imitate acts which they see on screen or hear about, such as the use of plastic bags as toys, use of matches, the use of dangerous household products as playthings, or other dangerous physical acts.
- 18.7 Programming for children shall not contain realistic scenes of violence which create the impression that violence is the preferred or only method to resolve conflict between individuals.
- 18.8 Programming for children shall not contain realistic scenes of violence which minimise or gloss over the effect of violent acts. Any realistic depictions of violence

shall portray, in human terms, the consequences of that violence to its victims and its perpetrators.

18.9 Programming for children shall not contain frightening or otherwise excessive special effects not required by the story line.

WATERSHED PERIOD

19. Programming on television which contains scenes of violence, sexually explicit conduct and/or offensive language intended for adult audiences shall not be broadcast before the watershed period.
20. On the basis that there is a likelihood of older children forming part of the audience during the watershed period, licensees shall adhere to the provisions of Article 32 below (audience advisories) enabling parents to make an informed decision as to the suitability of the programming for their family members.
21. Promotional material and music videos which contain scenes of violence, sexually explicit conduct and/or offensive language intended for adult audiences shall not be broadcast before the watershed period.
22. Some programmes broadcast outside the watershed period will not be suitable for very young children. Licensees should provide sufficient information, in terms of regular scheduling patterns or on-air advice, to assist parents to make appropriate viewing choices.
23. Licensees shall be aware that with the advance of the watershed period progressively less suitable (i.e. more adult) material may be shown and it may be that a programme will be acceptable for example at 23h00 that would not be suitable at 21h00.
24. Broadcasters must be particularly sensitive to the likelihood that programmes which start during the watershed period and which run beyond it may then be viewed by children.
25. **Subscription services**
 - 25.1 Where a programme service is only available to viewers on subscription and offers a parental control mechanism, its availability to children may be more restricted and the watershed period may begin at 20h00.

LANGUAGE

26. Offensive language, including profanity, blasphemy and other religiously insensitive material shall not be used in programmes specially designed for children.
27. No excessively and grossly offensive language should be used before the watershed period on television or at times when large numbers of children are likely to be part of the audience on television or radio. Its use during the periods referred to above should, where practicable, be approved in advance by the licensee's most senior programme executive or the designated alternate.

SEXUAL CONDUCT

28. Licensees shall not broadcast material, which judged within context, contains a scene or scenes, simulated or real of any of the following:
 - (i) A person who, or is depicted as being under the age of 18 years, participating in, engaging in or assisting another person to engage in sexual conduct or a lewd display of nudity;
 - (ii) Explicit violent sexual conduct;
 - (iii) Bestiality;
 - (iv) Explicit sexual conduct which degrades a person in the sense that it advocates a particular form of hatred based on gender and which constitutes incitement to cause harm.
29. Save for 28(i) above, the prohibition in 28(ii) to 28(iv) shall not be applicable to bona fide scientific, documentary, dramatic material, which judged within context, is of such nature. The prohibition in 28(i) shall however be applicable to artistic material which judged within context, is of such a nature.
30. Scenes depicting sexual conduct, as defined in the Films and Publication Act 65 of 1996, should be broadcast only during the watershed period. Exceptions to this may be allowed in programmes with a serious educational purpose or where the representation is non-explicit and should be approved in advance by the most senior programme executive or a delegated alternate.
31. Explicit portrayal of violent sexual behaviour is justifiable only exceptionally and the same approval process as referred to in 30 above must be followed.

AUDIENCE ADVISORIES

32. To assist audiences in choosing programmes, licensees shall provide advisory assistance, which when applicable shall include guidelines as to age, at the

beginning of broadcasts and wherever necessary, where such broadcasts contains violence, sexual conduct and/or offensive language.

33. Classification

33.1 Where a Film and Publications Board classification exists in terms of the Films and Publication Act No. 65 of 1996 (“Films and Publications Act”) for the version of a film or programme intended to be broadcast, such classification certification may be used as a guide for broadcasting.

33.2 No version which has been refused a Film and Publication Board classification certification should be broadcast at any time.

33.3 In all other instances, the provisions of this Code will apply.

34. News

34.1 Licensees shall be obliged to report news truthfully, accurately and fairly.

34.2 News shall be presented in the correct context and in a fair manner, without intentional or negligent departure from the facts, whether by:

- (a) Distortion, exaggeration or misrepresentation.
- (b) Material omissions; or
- (c) Summarisation

34.3 Only that which may reasonably be true, having due regard to the source of the news, may be presented as fact, an such fact shall be broadcast fairly with due regard to context and importance. Where a report is not based on fact or is founded on opinion, supposition, rumours or allegations, it shall be presented in such manner as to indicate clearly that such is the case.

34.4 Where there is reason to doubt the correctness of the report and it is practicable to verify the correctness thereof, it shall be verified. Where such verification is not practicable, that fact shall be mentioned in the report.

34.5 Where it subsequently appears that a broadcast report was incorrect in a material respect, it shall be rectified forthwith, without reservation or delay. The rectification shall be presented with such a degree of prominence and timing as in the circumstances may be adequate and fair so as to readily attract attention.

34.6 The identity of rape victims and other victims of sexual violence shall not be divulged in any broadcast without the prior consent of the victim concerned.

- 34.7 Licensees shall advise viewers in advance of scenes or reporting of extraordinary violence, or graphic reporting on delicate subject matter such as sexual assault or court action related to sexual crimes, particularly during afternoon or early evening newscasts and updates when children would probably be in the audience.
- 34.8 Licensees shall employ discretion in the use of explicit or graphic language related to stories of destruction, accidents or sexual violence which could disturb children and sensitive audiences.

35. Comment

- 35.1 Licensees shall be entitled to broadcast comment on and criticism of any actions or events of public importance.
- 35.2 Comment shall be an honest expression of opinion and shall be presented in such manner that it appears clearly to be comment, and shall be made on facts truly stated or fairly indicated and referred to.

36. Controversial issues of public importance

- 36.1 In presenting a programme in which controversial issues of public importance are discussed, a licensee shall make reasonable efforts to fairly present opposing points of view either in the same programme or in a subsequent programme forming part of the same series of programmes presented within a reasonable period of time of the original broadcast and within substantially the same time slot.
- 36.2 A person whose views are to be criticised in a broadcasting programme on a controversial issue of public importance shall be given a right to reply to such criticism on the same programme. If this is impracticable however, opportunity for response to the programme should be provided where appropriate, for example in a right to reply programme or in a pre-arranged discussion programme with the prior consent of the person concerned.

37. Elections

During any election period, the provisions of [sections 58, 59, 60](#) and [61](#) of the Act shall apply, and all broadcasting services shall in terms of those sections be subject to the jurisdiction of the Authority.

38. Privacy

Insofar as both news and comment are concerned, broadcasting licensees shall exercise exceptional care and consideration in matters involving the private lives and private concerns of individuals, bearing in mind that the right to privacy may be overridden by a legitimate public interest.

39. Paying a criminal for information

- 39.1 No payment shall be made to persons involved in crime or other notorious behaviour, or to persons who have been engaged in crime or other notorious behaviour, in order to obtain information concerning any such behaviour, unless compelling societal interests indicate the contrary.

INDEPENDENT BROADCASTING AUTHORITY ACT 153 OF 1993

REGULATIONS RELATING TO PARTY ELECTION BROADCASTS, POLITICAL ADVERTISEMENTS, THE EQUITABLE TREATMENT OF POLITICAL PARTIES BY BROADCASTING LICENSEES AND RELATED MATTERS IN RESPECT OF THE 2004 GENERAL ELECTION

Published under Government Notice 1431 in *Government Gazette* 25572 of 9 October 2003.

The Independent Communications Authority has, under [Section 78\(1\)](#) of the Independent Broadcasting Authority Act, 1993 (Act No. 153 of 1993), made the regulations in the schedule.

SCHEDULE

- [1. Definitions](#)
 - [2. Interpretation](#)
 - [3. General provisions in respect of advertisements and election broadcasts](#)
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- [Annexure C: Guidelines for broadcasters](#)

1. Definitions

In these regulations, any word or expression to which a meaning has been assigned in the Act shall bear such meaning and, unless the context indicates otherwise:

- 1.1 “Authority” means the Independent Communications Authority established by [Section 3](#) of the Independent Communications Authority of South Africa Act, No. 13 of 2000;
- 1.2 “BMCC” means the Broadcasting Monitoring & Complaints Committee referred to in [section 21\(1\)\(b\)](#) of the IBA Act;
- 1.3 “broadcaster” means a person who provides a broadcasting service under and in accordance with a broadcasting licence issued to it by the Authority under [Chapter VI](#) of the IBA Act, provided that:

- 1.3.1 in respect of advertisements and election broadcasts, the word “broadcaster” shall not include any person who so provides a television broadcasting service; and
- 1.3.2 in the case of any broadcaster who is licensed to provide more than one broadcasting service, the word “broadcaster” shall refer to each such broadcasting service;
- 1.4 “Broadcasting Act” means the Broadcasting Act, No. 4 of 1999 as amended;
- 1.5 “Commission” means the Independent Electoral Commission established by [section 3](#) of the Electoral Commission Act;
- 1.6 “Constitution” means the Constitution of the Republic of South Africa, Act No. 108 of 1996;
- 1.7 “current affairs programme” means a program that is not a news bulletin but which focuses on and includes comment on and interpretation and analysis of issues of immediate social, political or economic relevance and matters of international, national, regional and local significance;
- 1.8 “election broadcast” means a party election broadcast as defined in the IBA Act;
- 1.9 “election broadcast period” means the period within which party election broadcasts may be transmitted; such period may not begin prior to the closing of the submission of the lists of candidates, as referred to in [section 27](#) of the Electoral Act, and may not extend to more than 48 hours before polling commences;
- 1.10 “election period” means the period as defined in [Section 1](#) of the IBA Act;
- 1.11 “Electoral Act” means the Electoral Act, No. 73 of 1998;
- 1.12 “Electoral Code” means the Electoral Code of Conduct set out in [Schedule 2](#) of the Electoral Act;
- 1.13 “Electoral Commission Act” means the Electoral Commission Act, No 51 of 1996;
- 1.14 “IBA Act” means the Independent Broadcasting Authority Act, No. 153 of 1993;
- 1.15 “ICASA Act” means the Independent Communications Authority of South Africa Act, No. 13 of 2000;
- 1.16 “News” means programming that is not current affairs by a broadcaster in which it reports on news events of immediate social, political or economic relevance and on matters of international, national and local significance

- 1.17 “party” means a political party registered in terms of [section 15](#) of the Electoral Commission Act, or any alliance of such registered political parties, that has nominated candidates and submitted a list or lists of those candidates in accordance with [section 27](#) of the Electoral Act, and includes any organisation that, group of people which, or person who, acts in support of such a registered political party;
- 1.18 “polling day” means the day proclaimed by the President in terms of [section 49\(2\)](#) of the Constitution, as read with [section 17](#) of the Electoral Act, as being the day on which voting for the National Assembly will take place;
- 1.19 “political advertisement” means a political advertisement as defined in the IBA Act;
- 1.20 “prime time” means the periods set out in Annexure “A”;
- 1.21 “SABC” means the South African Broadcasting Corporation, a statutory body incorporated in terms of the Broadcasting Act 4 of 1999, as amended;

2. Interpretation

Every person interpreting or applying these Regulations shall do so in a manner that is consistent with, gives effect to and takes into account the provisions of the Constitution, the IBA Act, the Broadcasting Act and the Electoral Code.

3. General provisions in respect of advertisements and election broadcasts

- 3.1 Any party that wishes to have an advertisement or an election broadcast transmitted by a broadcaster shall submit that advertisement or election broadcast to the broadcaster concerned, pre-recorded and:
- 3.1.1 in a form and manner that complies with that broadcaster’s technical standards acceptable to that broadcaster;
 - 3.1.2 in completed form, ready for broadcast; and
 - 3.1.3 at least 96 hours before the time when that advertisement or election broadcast is to be transmitted.
- 3.2 Every broadcaster, other than the SABC, must indicate to the Authority whether or not it will transmit election broadcasts by not later than (date to be decided)
- 3.3 Every broadcaster that is required, or intends, to transmit advertisements or election broadcasts shall, by no later than (date to be decided) notify the Authority in writing of its technical standards as contemplated in Regulation 3.1.1. If the Authority is of the view that a broadcaster’s technical standards are unreasonable, the Authority shall

notify that broadcaster accordingly in writing and shall direct that broadcaster to amend its technical standards.

- 3.4 Every advertisement or election broadcast submitted by a party to a broadcaster for transmission shall be prepared by, or at the instance and request of, that party.
- 3.5 No broadcaster to whom an advertisement or election broadcast has been submitted by a party shall in any way edit or alter that advertisement or election broadcast, whether before or after transmission.
- 3.6 Every broadcaster to whom an advertisement or election broadcast has been submitted by a party for transmission shall be entitled to reject and refuse to transmit that advertisement or election broadcast if it does not comply with the broadcaster's reasonable technical standards, with the Constitution, these Regulations, the IBA Act or with the Electoral Code.
- 3.7 Any broadcaster who rejects any advertisement or election broadcast submitted to it by a party for transmission shall, within 24 hours of such submission:
 - 3.7.1 furnish the party that submitted the advertisement or election broadcast concerned to that broadcaster with written reasons for such rejection, and that party shall be entitled to alter or edit the advertisement or election broadcast and again submit it to the broadcaster concerned at least 24 hours before the time when it is to be transmitted;
 - 3.7.2 in the event of the broadcaster rejecting an altered or edited advertisement or election broadcast in terms of Regulation 3.7.1, notify the Authority of such rejection by furnishing the Authority with a copy of the written reasons given for that rejection.
 - 3.7.3 any party whose election broadcast has been rejected by a broadcaster under this regulation may refer the matter to the Authority in terms of Regulation 6.
- 3.8 A party that submits an advertisement or election broadcast to a broadcaster for transmission shall ensure that the advertisement or election broadcast does not:
 - 3.8.1 contravene the provisions of item 9 of the Electoral Code, the Constitution, the IBA Act and the Broadcasting Act; or
 - 3.8.2 contain any material that is calculated, or that in the ordinary course of things is likely, to provoke or incite any unlawful, illegal or criminal act, or that may be perceived as condoning or lending support to any such act.
- 3.9 Neither any party that submits an advertisement or an election broadcast to a broadcaster for transmission, nor any member or official of any such party, shall have

any claim against that broadcaster arising from the transmission by it of that advertisement or election broadcast.

- 3.10 Every party that submits an advertisement or an election broadcast to a broadcaster for transmission shall be deemed to have indemnified that broadcaster against any cost, damage or loss incurred or sustained by that broadcaster as a result of any claim which a third party may bring against it arising from the transmission of that advertisement or election broadcast by that broadcaster.
- 3.11 Neither any party, nor any member or official of any party, shall have any claim against a broadcaster arising from the transmission by that broadcaster of any advertisement or election broadcast.
- 3.12 No advertisements or election broadcasts may be transmitted after the end of the election broadcast period.

4. Specific provisions in respect of election broadcasts

- 4.1 Election broadcasts may only be transmitted during the election broadcast period.
- 4.2 Every broadcaster who transmits election broadcasts shall:
 - 4.2.1 make available, on every day throughout the election broadcast period four time-slots of two minutes each for the transmission of election broadcasts, provided that the Authority shall be entitled to prescribe by regulation an increased number of daily time-slots for the transmission of election broadcasts;
 - 4.2.2 do so in accordance with the sequence and timing prescribed by the Authority in terms of Regulation 5;
 - 4.2.3 ensure that all election broadcasts transmitted by it are clearly identified as election broadcasts;
 - 4.2.4 ensure that all election broadcasts transmitted by it are identified or announced in a similar manner both at their introduction and at their conclusion.
- 4.3 No single election broadcast transmitted by a broadcaster shall exceed two minutes in duration.
- 4.4 No broadcaster may transmit an election broadcast immediately before or after another election broadcast or immediately before or after an advertisement.
- 4.5 No party shall be obliged to use the air-time allocated to it in terms of Regulation 5 for the transmission of election broadcasts, provided that:
 - 4.5.1 any air-time allocated to but not used by a party shall be forfeited;

- 4.5.2 if any party does not wish to use any air-time allocated to it, such air-time shall not be allocated to another party but shall be used by the broadcaster concerned for the purpose of transmitting conventional programming or material;
- 4.5.3 if any party does not wish to use any air-time allocated to it, the broadcaster concerned shall not, during the relevant time-slot, transmit any advertisement or election broadcast previously transmitted on behalf of that party, or in any way vary the sequence or scheduling of election broadcast transmissions determined in accordance with these Regulations.
- 4.6 Neither any broadcaster nor any party shall permit or engage in any interference with, or trading in, the sequence or scheduling of election broadcast transmissions determined in accordance with these Regulations.

5. Allocation of air-time in respect of election broadcasts

- 5.1 Air-time in respect of election broadcasts shall be allocated by the Authority to the various parties contesting the national and provincial elections on the basis of the respective formulae set out in [Annexure B](#).
- 5.2 The Authority shall, as soon as may be reasonably practicable, after the date referred to in [section 27](#)(1) of the Electoral Act, publish a notice setting out the air-time allocation in respect of election broadcasts.
- 5.3 Once the submissions of lists of candidates has been closed under [section 27](#) of the Electoral Act the Authority shall;
 - 5.3.1 determine the sequence in which election broadcasts are to be transmitted for the entire election broadcast period;
 - 5.3.2 notify the broadcasters concerned in writing of such sequence.
- 5.4 The determination which is to be made by the Authority in terms of Regulation 5.3 shall be made:
 - 5.4.1 by the drawing of lots;
 - 5.4.2 in the presence of an official of the Commission designated by the Commission for that purpose.
- 5.5 The Authority shall notify the representatives referred to in Regulation 7.1 of the time when and place where the determination referred to in Regulation 5.3 will be made, and such representatives shall be entitled to be present when such determination is made.

6. Mediation

- 6.1 In the event of a broadcaster rejecting or refusing to transmit any advertisement or election broadcast submitted to it by a party for transmission, the party may:
 - 6.1.1 refer the matter to the Authority in writing within 24 hours of being notified by the broadcaster of such rejection and the Authority shall attempt to resolve the matter in any manner it may consider appropriate;
 - 6.1.2 in the event of the Authority being unable to resolve a matter in terms of Regulation 6.1.1 it shall refer the matter to the BMCC and the BMCC shall deal with the matter in accordance with any procedure which the BMCC may consider appropriate.
- 6.2 In the event of any dispute arising between any party and any broadcaster, in respect of any matter governed by these Regulations, or in the event of any person being aggrieved by any act performed by any person in terms of these Regulations, or in the event of any dispute arising regarding the interpretation or application of these Regulations, any person who has a material interest in the matter shall be entitled to refer the matter to the Authority within 24 hours of the dispute or grievance arising.
 - 6.2.1 the Authority shall attempt to resolve the dispute or grievance in any manner it may consider appropriate;
 - 6.2.2 in the event of the Authority being unable to resolve a matter in terms of Regulation 6.2.1 it shall refer the matter to the BMCC and the BMCC shall deal with the matter in accordance with any procedure which the BMCC may consider appropriate.
- 6.3 No person may seek relief in a court of law in respect of any rejection, dispute or grievance arising from the interpretation or application of these regulations unless the applicable procedures set out in these Regulations have been exhausted.

7. General

- 7.1 Every broadcaster and every party shall:
 - 7.1.1 nominate a person who shall be the representative of that broadcaster or party in respect of all matters regulated by, or arising from, these Regulations;
 - 7.1.2 by no later than (date to be decided) notify the Authority in writing of the name, physical and postal address, telephone number and, where available, cellular phone number and e-mail address of that person.
- 7.2 Every broadcaster shall take reasonable steps to ensure compliance by that broadcaster with these Regulations to the extent that they may be applicable to that broadcaster.

- 7.3 Every broadcaster who transmits news or current affairs programmes in respect of the elections shall do so in an impartial and objective manner and in a manner which treats all parties fairly. In complying with this obligation, broadcasters should have regard to the guidelines set out in [Annexure C](#).

8. Short title

These regulations may be cited as the Independent Communications Authority General Elections Regulations, 2004.

ANNEXURE A

LIST OF REGIONAL AND NATIONAL STATIONS AS WELL AS THEIR PRIME LISTENERSHIP TIMES

1. REGIONAL BREAKDOWN OF SABC RADIO STATIONS

1.1 GAUTENG

- 1.1.1 RSG
- 1.1.2 SA FM
- 1.1.3 Ukhozi FM
- 1.1.4 Ikwewezi FM
- 1.1.5 Umhlobo Wenene FM
- 1.1.6 Ligwalagwala FM
- 1.1.7 Thobela FM
- 1.1.8 Motsweding FM
- 1.1.9 Phalaphala FM
- 1.1.10 Lesedi FM
- 1.1.11 Metro FM
- 1.1.12 5 FM
- 1.1.13 Lotus FM
- 1.1.14 Munghana Lonene FM

1.2 LIMPOPO

- 1.2.1 RSG
- 1.2.2 SA FM
- 1.2.3 5 FM
- 1.2.4 Ikwewezi FM
- 1.2.5 Metro FM
- 1.2.6 Thobela FM
- 1.2.7 Radio 2000
- 1.2.8 Motsweding FM
- 1.2.9 Munghana Lonene FM
- 1.2.10 Phalaphala FM

1.2.11 Ligwalagwala FM

1.3 EASTERN CAPE

- 1.3.1 RSG
- 1.3.2 SA FM
- 1.3.3 Radio 2000
- 1.3.4 Umhlobo Wenene FM
- 1.3.5 5 FM
- 1.3.6 Lesedi FM
- 1.3.7 Metro FM
- 1.3.8 CKI FM
- 1.3.9 Ukhozi FM

1.4 NORTHERN CAPE

- 1.4.1 RSG
- 1.4.2 SA FM
- 1.4.3 Radio 2000
- 1.4.4 Umhlobo Wenene FM
- 1.4.5 Motsweding FM
- 1.4.6 5 FM
- 1.4.7 XK-FM

1.5 KWAZULU-NATAL

- 1.5.1 RSG
- 1.5.2 SA FM
- 1.5.3 Radio 2000
- 1.5.4 Umhlobo Wenene FM
- 1.5.5 5 FM
- 1.5.6 Lesedi FM
- 1.5.7 Metro FM
- 1.5.8 Lotus FM
- 1.5.9 Ukhozi FM

1.6 NORTH WEST

- 1.6.1 RSG
- 1.6.2 SA FM
- 1.6.3 Radio 2000
- 1.6.4 Umhlobo Wenene FM
- 1.6.5 Motsweding FM
- 1.6.6 Lesedi FM

1.7 MPUMALANGA

- 1.7.1 RSG
- 1.7.2 SA FM
- 1.7.3 Radio 2000
- 1.7.4 Ukhozi FM
- 1.7.5 Ikwewezi FM
- 1.7.6 Ligwalagwala FM
- 1.7.7 5 FM
- 1.7.8 Metro FM
- 1.7.9 Thobela FM
- 1.7.10 Lesedi FM
- 1.7.11 Munghana Lonene FM

1.8 WESTERN CAPE

- 1.8.1 Good Hope FM
- 1.8.2 RSG
- 1.8.3 SA FM
- 1.8.4 Radio 2000
- 1.8.5 Umhlobo Wenene FM
- 1.8.6 5 FM
- 1.8.7 Metro FM
- 1.8.8 Lotus FM

1.9 FREE STATE

- 1.9.1 RSG
- 1.9.2 SA FM
- 1.9.3 Lesedi FM
- 1.9.4 5 FM
- 1.9.5 Metro FM
- 1.9.6 Radio 2000
- 1.9.7 Ukhozi FM
- 1.9.8 Umhlobo Wenene FM
- 1.9.9 Motsweding FM

2. SABC RADIO STATIONS' PRIME LISTENERSHIP TIMES*1

*1 Source: SAARF Radio Audience Measurement Survey of November 1998

Election broadcasts will be divided into the following day parts:

6h00 to 9h00

9h00 to 12h00
12h00 to 15h00
15h00 to 18h00

3. NATIONAL RADIO STATIONS

Due to their availability in all nine provinces the following SABC radio stations are regarded as national broadcasters:

- RSG
- SA FM
- 5 FM
- Radio 2000

4. OTHER BROADCASTERS

Community and private commercial broadcasters can elect whether to broadcast political adverts and party election broadcasts. A list of these stations will be made available to all contesting parties.

ANNEXURE B

NATIONAL AND REGIONAL STATIONS FORMULAE TO CALCULATE THE ALLOCATION OF PARTY ELECTION BROADCASTS

INTRODUCTION

The Independent Communications Authority of South Africa (“the Authority”) has exclusive responsibility for allocating to contesting political parties party election broadcasts on public broadcast radio stations and on any other stations choosing to broadcast party election broadcasts.

The IBA Act directs the Authority to ensure contesting parties are treated equitably. Equitable treatment is defined in South African law and international precedent as fair.

In keeping with the general principle of equitability and in recognition of the fact that the interests of the South African public are paramount, the Authority has adopted the international convention that the public is entitled to hear more from and about political parties more likely to influence policy decisions affecting the electorate, nationally and provincially.

In terms of this principle and international practice, parties likely to contribute to policy decisions affecting South Africans directly either as, or as part of, national and provincial governments, or as official oppositions in these forums will thus be allocated more Party Election Broadcasts than those unlikely to play these roles.

To achieve this, the Authority has adapted the formula used to allocate Party Election Broadcasts in the 1999 elections to take account of the fact that most political parties have an historical track record of parliamentary representation.

Three factors have been taken into account when developing the formula by which parties will be allocated Party Election Broadcast slots:

- The need for all parties to be heard by voters who could vote for them.

This factor serves as a numerical filter, to ensure that the electorate is afforded an opportunity to hear all parties potentially exercising influence in policy decisions affecting their lives.

This factor serves to limit the time differential between parties occupying and contesting a large number of seats and those contesting fewer seats.

- Historical record - current seats in national parliament and provincial legislatures
- The number of seats parties are contesting nationally and provincially

In developing the formula for allocating Party Election Broadcasts, the Authority has taken account of the fact that South African radio stations cover different provincial legislative areas.

All national stations, covering all nine provincial legislative areas, will thus be required to carry Party Election Broadcasts from parties contesting national assembly seats, and from parties contesting seats in any or all of the provincial legislatures.

Party Election Broadcasts are allocated on a points system, with points accruing to each party on the basis of a minimum and equal allocation to all parties contesting the election, its historical record, and the number of seats it is contesting.

The maximum number of points will be secured by a party contesting all national assembly seats, both national and provincial lists, and all seats in all nine provinces and with a strong 1999 performance.

National Party Election Broadcast points are allocated in direct proportion to the number of national list National Assembly seats contested and the number of provincial list National Assembly seats contested.

Provincial Party Election Broadcast points are allocated on a sliding scale, depending on the number of provinces in which a party is contesting seats, and the number of seats contested in each province.

Fairness requires that the differential between new, untested parties and established parties is relatively low. The basic, equal allocation to all parties is thus relatively large,

accounting for approximately a quarter of the optimum number of points available to a party.

Party Election Broadcast allocation will be calculated only once registration of political parties and candidates has been closed.

The Authority can in its discretion consider using of recent public opinion polls and other such factors as it may deem necessary in order to determine Party Election Broadcast allocation. In keeping with its commitment to transparency, the Authority shall make known to participating parties and the general public what additional factors it has taken into account.

National Stations' Formula

<p><i>Basic Allocation</i></p> <p>All parties contesting seats in the National Assembly</p>	<p>20 points</p>
<p><i>Number of Seats Currently Held</i></p> <p>Based on current seats in the National Assembly pro rata, or on opinion polls or on any other factor that the Authority may deem necessary.</p>	<p>35 points</p>
<p><i>National Allocation List</i></p> <p>Based on the number of candidates fielded by a party on the national assembly list, with 200 securing 15 points and those fielding fewer candidates securing points on a pro rata basis.</p>	<p>15 points</p>
<p><i>National Assembly Regional List Allocation</i></p> <p>Based on the number of candidates fielded by a party on the national assembly's regional list, with 200 securing 15 points and those fielding fewer candidates securing points on a pro rata basis.</p>	<p>15 points</p>
<p><i>Provincial List Allocation</i></p> <p>Based on the number of provincial legislature candidates fielded by each party throughout the country, with a party fielding the maximum securing 15 points and parties fielding fewer candidates securing points on a pro rata basis.</p>	<p>15 points</p>

Regional Stations' Formula

<i>Basic Allocation</i> All the parties contesting seats in the National Assembly.	20 points
<i>Number of seats currently held</i> Based on current seats in the National Assembly and in the relevant provincial legislatures pro rata, and on any opinion polls or on any other factor that the Authority may deem necessary.	35 points
<i>National Assembly Allocation List</i> Based on the number of candidates fielded by a party on the national assembly list, with 200 candidates securing 15 points and those fielding fewer candidates securing points on a pro rata basis.	15 points
<i>National Assembly's Regional List Allocation</i> Based on the number of candidates fielded by a party on the national assembly's regional list, with 200 candidates securing 15 points and those fielding fewer candidates securing points on a pro rata basis.	15 points
<i>Provincial List</i> Based on the number of provincial legislature candidates fielded by each party throughout the country, with parties fielding the maximum securing 15 points and parties fielding fewer candidates securing points on a pro rata basis.	15 points

ANNEXURE C

GUIDELINES

1. INTRODUCTION

These guidelines are intended to outline a general approach that should be adopted by broadcasting licensees in their coverage of the 2004 general elections. General elections are an important public event and they clearly fall within the area of news and current affairs. Broadcasting licensees are encouraged, in the public interest, to provide a full, impartial, and independent coverage of the elections.

The Authority does not intervene in the news and programming operations of the broadcasters. Broadcasters' role during elections does not differ from their normal journalistic role during non-election periods. Normal ethical considerations will continue to apply. A distinguishing feature of the election period is the obligation to achieve equitable coverage of political parties without abdicating news value judgements.

2. EDITORIAL MATTERS

Section 61 of the IBA Act lays down specific requirements for the treatment of political parties during the election period by broadcasters in their editorial programming. The requirements are:

- (1) "If, during an election period, the coverage of any broadcasting service extends to the field of elections, political parties and issues relevant thereto, the broadcasting licensee concerned shall afford reasonable opportunities for the discussion of conflicting views and shall treat all political parties equitably.
- (2) In the event of any criticism against a political party being leveled in a particular programme of any broadcasting service without such party having been afforded an opportunity to respond thereto in such programme or without the view of such political party having been reflected therein, the broadcasting licensee concerned shall be obliged to afford such a party a reasonable opportunity to respond to criticism.
- (3) If, within 48 hours before the commencement of the polling period or during the polling period, a broadcasting licensee intends broadcasting a programme in which a particular political party is criticized, the licensee shall ensure that the political party is given a reasonable opportunity to respond thereto in the same programme, or to do so as soon as reasonably practicable thereafter".

The Authority advises broadcasters to take special care during the final 48 hours prior to election day. There will be limited time for broadcasters to ensure that political parties' right of reply is honoured during this period. Broadcasters should, therefore, ensure that parties are given time to reply, should this be necessary, within the same programme during this period.

3. EQUITABLE TREATMENT

Three principles of equitability:

3.1. Equitable treatment does not mean equal treatment

The Authority will not expect broadcasting services to distort their news values and processes by giving the same weight to small or one-person parties as they do to serious contenders for a place in national or provincial government.

3.2 Equitable treatment means fair treatment

Each broadcasting service will be expected to treat parties fairly. Equitable treatment is unlikely to be achieved in a single programme but can be achieved in a series of programmes. Each broadcasting service should be consistent in its treatment of contesting parties and of conflicting views.

3.3 Broadcasters must seek out information.

Broadcasters should recognise their obligation to the electorate to provide a full and accurate record of events and developments. Broadcasters should not rely on political parties to bring information to them, but should actively seek out information. Failure to do so will give parties with greater resources inequitable amounts of news coverage.

4. PRINCIPLES TO BE ADHERED TO

To further assist broadcasters in fulfilling the requirements of the Act the following principles will apply:

4.1 Fairness

- All news coverage should be fair to all interests concerned;
- Care should be taken to balance the exposure given to the non- political activities of candidates (such as attendance at functions, sporting events etc).
- All parties should receive equitable treatment on current affairs programmes. If the programme intends to feature party representatives, parties contesting the elections must be invited, with reasonable notice, to participate either in the same programme or in a series of programmes.
- The requirement that broadcasters give an opportunity for conflicting views to be heard should not be interpreted as a requirement that all parties be heard on any subject, only that all views be heard. Nor is it a requirement that all views be heard on the same programme.

4.2 The right of reply to broadcast criticism

Each broadcaster should afford all political parties reasonable opportunity to respond to criticism broadcast by that broadcaster. However, affording parties reasonable time to respond should not amount to forcing broadcasters to turn their editorial programmes into a series of replies and replies-to-replies. There should be a distinction between demands for the right to reply to mild or rhetorical criticism, which properly forms part of the cut and thrust of robust political contest; and demands for the right to reply to criticisms which result in

clear and immediate damage to a political party. With regard to rhetorical criticisms, broadcasters must have the flexibility to incorporate responses into their formal news patterns. With regard to damaging criticisms, broadcasters should give the offended party an opportunity to respond. The party should be afforded the earliest and most appropriate opportunity to do so. Broadcasters should, however, not allow political parties to use their right to reply to criticism to manipulate or distort the general principle of equitability.

4.3 Coverage of government

During the election period, broadcasters must recognise that government officials are in a position to use their incumbency to advance their electoral prospects. During the election period, broadcasters should regard with particular caution any statement or action by an official of an incumbent party. In particular, broadcasters need to ensure that, during the election period, they do not afford the policies of incumbent parties greater legitimacy than they would afford those policies or actions if the party were not in government.

4.4 Coverage of non-participating organisations

In providing reasonable opportunity for the discussion of conflicting views, non-participating political parties and organisations affiliated to alliances should not be excluded from debates and news bulletins. They should be included in terms of normal journalistic practice - when the topic is one in which they have a material interest. However, they should not be included with such frequency that they distort the general principle of equitability between registered, contesting parties.

4.5 Coverage of election results

Broadcasters, particularly the public broadcaster, have an obligation to inform the electorate of the election results, as they become available. Coverage of election results may also include comment, analysis and interpretation. Special care should be taken to ensure the accuracy of all results broadcast.

5. **CONCLUSION**

The guidelines in essence therefore will provide a framework to broadcasters covering the elections within which the system of Party Election Broadcasts and political advertising will operate.

INDEPENDENT BROADCASTING AUTHORITY ACT 153 OF 1993

REGULATIONS RELATING TO REVIEW PROCEDURES TO BE FOLLOWED IN THE EVENT OF A REVIEW APPLICATION BEING BROUGHT TO THE BROADCASTING MONITORING AND COMPLAINTS COMMITTEE.

Published under Government Notice 1432 in *Government Gazette* 25573 of 9 October 2003.

The Independent Communications Authority has, under [section 78](#) (1) of the Independent Broadcasting Authority Act, 1993 (Act No. 153 of 1993), made the regulations in the Schedule

SCHEDULE

- [1. Preamble](#)
- [2. Definitions](#)
- [3. Grounds of review](#)
- [4. Review procedure](#)

1. Preamble

In an agreement signed in 1995 between the IBA and the BCCSA it was agreed that a complainant shall have the right to approach the IBA if he or she is of the opinion that the BCCSA has not applied the principles of natural justice and its procedure in a legally acceptable manner, whereupon the IBA shall, if it finds in favour of the complainant refer the matter back to the BCCSA for re-hearing These powers of the IBA have now been transferred to the Independent Communications Authority (the Authority) which is the current regulator of both the broadcasting and telecommunications sector in South Africa.

2. Definitions

In these regulations any word to which a meaning has been assigned in the independent Broadcasting Authority Act (Act 153 of 1993) and the Broadcasting Act (No.4 of 1999) shall have that meaning unless the context indicates otherwise.

2.1 “MCU” refer to the Monitoring and Complaints unit of ICASA

2.2 “day” means ordinary days, from Monday to Sunday inclusive but shall not include public holidays. In the calculation of days the first day shall be excluded and the last included.

3. Grounds of review

The grounds upon which the proceedings of the BCCSA may be brought under review before the BMCC are:

- 3.1 Absence of jurisdiction on the part of the BCCSA;
- 3.2 Bias, malice or corruption on the part of the BCCSA;
- 3.3 Gross irregularity in the proceedings;
- 3.4 Failure to comply with rules of natural justice;

4. Review procedure

In the event of a matter being referred to the BMCC for review the procedure is as follows:

- 4.1 An Application for Review of a decision made by the BCCSA must be brought within a reasonable time after the decision has come to the notice of the complainant, but in any event not later than 30 days after the BCCSA hearing.
- 4.2 All review proceedings shall commence by the lodging of an Application for Review, served by the party seeking to review the BCCSA proceedings, with the manager of the MCU, and notice given thereof to all other parties affected. Proof of notice to all affected parties must be furnished to the Authority.
- 4.3 The Application for Review should:
 - 4.3.1 Call upon the BCCSA to show cause why such proceedings should not be reviewed and set aside,
 - 4.3.2 Call upon the BCCSA to despatch, within fifteen days after receipt of the application, to the MCU the transcript of such proceedings sought to be reviewed and set aside. Such transcript shall be certified by the BCCSA as a true copy of the proceedings.
- 4.4 The Application for Review shall set out the proceedings sought to be reviewed as well as the grounds and the facts and circumstances upon which the applicant relies to have the decision or proceedings set aside.
- 4.5 The MCU shall make available to the applicant and other interested parties the transcript despatched to it as aforesaid upon such terms as the MCU thinks appropriate.

- 4.6 The applicant may within ten days after the MCU has made the record available to him/her, by serving of a notice to amend, add to or vary the terms of his Application for Review.
- 4.7 A copy of the application as amended shall then be served to the manager of the MCU and any other affected party.
- 4.8 Should the BCCSA or any other party affected desire to oppose the granting of the order prayed in the Application, such party shall:
 - 4.8.1 within ten days after receipt by him/her of the application or any amendment thereof serve notice to the applicant and the manager of the MCU that he/she intends so to oppose and shall in such notice appoint an address at which he/she will accept notice and service of all process in such proceedings; and
 - 4.8.2 within ten days after the expiry of the time referred to in paragraph 4.8.1 hereof, serve any reply he/she may desire. in answer to the allegations made by the applicant.
- 4.9 Where no notice in terms of sub paragraph 4.8.1 and 4.8.2 is served, the applicant may within five days of the expiry thereof apply to the manager of the MCU to allocate a date for the hearing of the application.
- 4.10 If the applicant fails to apply for a date within the period aforesaid, the respondent may do so immediately upon the expiry thereof.
- 4.11 Notice in writing of the date allocated as aforesaid shall forthwith be given by the MCU to all affected parties.
- 4.12 The BMCC, after hearing an application shall, if it finds in favour of the applicant, refer the matter back to the BCCSA for re-hearing.

INDEPENDENT BROADCASTING AUTHORITY ACT 153 OF 1993

PUBLIC REGIONAL TELEVISION BROADCASTING LICENCE FEES REGULATIONS, 2003

Published under Government Notice R1740 in *Government Gazette* 25783 of 28 November 2003.

The Independent Communications Authority of South Africa (“the Authority”) has in terms of [section 78\(1\)\(bB\)](#) and 78(1A) of the Independent Broadcasting Authority Act, No. 153 (“the IBA Act”), made the regulations in the Schedule.

- [1. Preamble](#)
- [2. Definitions](#)
- [3. Application Fees](#)
- [4. Issue of Licence](#)
- [5. Application for Renewal](#)
- [6. Amendment of Licence](#)
- [7. Annual Licence Fee](#)
- [8. Non-Refundable](#)
- [9. Method of Payment](#)
- [10. Effective Date](#)
- [11. Short Title](#)

1. Preamble

The objective of these regulations is to impose payment to the Authority in respect of public regional television broadcasting licences, including application, the issue, renewal, and amendment of such licences.

2. Definitions

In these regulations any word to which a meaning has been assigned in the IBA Act and the Broadcasting Act (No.4 of 1999) shall have that meaning unless the context indicates otherwise.

- 2.1 “**the Authority**” means the Independent Communications Authority of South Africa as established by section 3 of the Independent Communications Authority Act, No. 13 of 2000;
- 2.2 “**the Broadcasting Act**” means the Broadcasting Act, Act No.4 of 1999;
- 2.3 “**Financial year**” means the financial year of the Authority;

- 2.4 **“the IBA Act”** means the Independent Broadcasting Authority Act, Act No. 153 of 1993;
- 2.5 **“ICASA Act”** means the Independent Communications Authority Act, Act No. 13 of 2000;
- 2.6 **“Licence”** means a public regional television broadcasting licence granted and issued in terms of the IBA Act and the Broadcasting Act; and
- 2.7 **“Licensee”** means the holder of a public regional television licence granted and issued under the IBA Act and the Broadcasting Act.

3. Application Fees

Every application for a public regional television broadcasting licence shall be accompanied by a fee of fifty thousand rand (R 50 000).

4. Issue of Licence

A licence granted to any public regional television broadcasting applicant shall not be issued unless a fee of two thousand rand (R2 000) has been paid to the Authority.

5. Application for Renewal

Every application for a renewal of a public regional television broadcasting licence shall be accompanied by a fee of fifty thousand rand (R50 000).

6. Amendment of Licence

Every application for an amendment of a public regional television broadcasting licence shall be accompanied by a fee of thirty thousand rand (R30 000).

7. Annual Licence Fee

There shall be no annual licence fees payable.

8. Non-Refundable

Fees paid in terms of clauses 3, 4, 5 and 6 are not refundable.

9. Method of Payment

Payment of all amounts due in terms of these regulations must be by way of a crossed, bank guaranteed cheque payable to the Authority or such other form of payment as may be acceptable and agreed to by the Authority from time to time.

10. Effective Date

The effective date of these regulations shall be the date of publication in the *Gazette*.

11. Short Title

These regulations are called the Public Regional Television Broadcasting Licence Fees, 2003

INDEPENDENT BROADCASTING AUTHORITY ACT 153 OF 1993

REGULATIONS RELATING TO PARTY ELECTION BROADCASTS, POLITICAL ADVERTISEMENTS, THE EQUITABLE TREATMENT OF POLITICAL PARTIES BY BROADCASTING LICENSEES AND RELATED MATTERS IN RESPECT OF THE 2004 GENERAL ELECTIONS

Published under General Notice 224 in *Government Gazette* 26006 of 10 February 2004.

The Independent Communications Authority of South Africa (“the Authority”) has, under [Section 78](#)(1) of the Independent Broadcasting Authority Act, 1993 (Act No. 153 of 1993), made the regulations in the schedule.

SCHEDULE

- [1. Definitions](#)
- [1A.](#)
- [2. Interpretation](#)
- [3. General provisions in respect of political advertisements and party election broadcasts](#)
- [4. Specific provisions in respect of party election broadcasts](#)
- [5. Allocation of air-time in respect of party election broadcasts](#)
- [6. Mediation](#)
- [7. General](#)
- [8. Short title](#)
- [ANNEXURE A](#)
- [ANNEXURE B](#)
- [ANNEXURE C](#)

1. Definitions

In these regulations, any word or expression to which a meaning has been assigned in the Act shall bear such meaning and, unless the context indicates otherwise:

- 1.1 “**Authority**” means the Independent Communications Authority established by [Section 3](#) of the Independent Communications Authority of South Africa Act, No. 13 of 2000;
- 1.2 “**BMCC**” means the Broadcasting Monitoring & Complaints Committee referred to in [section 21](#)(1)(b) of the IBA Act;
- 1.3 “**broadcaster**” means a person who provides a broadcasting service under and in accordance with a broadcasting licence issued to it by the Authority under [Chapter VI](#) of the IBA Act, provided that:

- 1.3.1 in respect of advertisements and election broadcasts, the word “broadcaster” shall not include any person who so provides a television broadcasting service; and
- 1.3.2 in the case of any broadcaster who is licensed to provide more than one broadcasting service, the word “broadcaster” shall refer to each such broadcasting service;
- 1.4 **“Broadcasting Act”** means the Broadcasting Act, No. 4 of 1999 as amended;
- 1.5 **“Commission”** means the Independent Electoral Commission established by [section 3](#) of the Electoral Commission Act;
- 1.6 **“Constitution”** means the Constitution of the Republic of South Africa, Act No. 108 of 1996;
- 1.7 **“current affairs programme”** means a program that is not a news bulletin but which focuses on and includes comment on and interpretation and analysis of issues of immediate social, political or economic relevance and matters of international, national, regional and local significance;
- 1.8 **“election broadcast”** means a party election broadcast as defined in the IBA Act;
- 1.9 **“election broadcast period”** means the period within which party election broadcasts may be transmitted; such period may not begin prior to the closing of the submission of the lists of candidates, as referred to in [section 27](#) of the Electoral Act, and may not extend to more than 48 hours before polling commences;
- 1.10 **“election period”** means the period as defined in [Section 1](#) of the IBA Act;
- 1.11 **“Electoral Act”** means the Electoral Act, No. 73 of 1998;
- 1.12 **“Electoral Code”** means the Electoral Code of Conduct set out in [Schedule 2](#) of the Electoral Act;
- 1.13 **“Electoral Commission Act”** means the Electoral Commission Act, No 51 of 1996;
- 1.14 **“IBA Act”** means the Independent Broadcasting Authority Act, No. 153 of 1993;
- 1.15 **“ICASA Act”** means the Independent Communications Authority of South Africa Act, No. 13 of 2000;
- 1.16 **“News”** means programming that is not current affairs by a broadcaster in which it reports on news events of immediate social, political or economic relevance and on matters of international, national and local significance

- 1.17 “**party**” means a political party registered in terms of [section 15](#) of the Electoral Commission Act, or any alliance of such registered political parties, that has nominated candidates and submitted a list or lists of those candidates in accordance with [section 27](#) of the Electoral Act, and includes any organisation that, group of people which, or person who, acts in support of such a registered political party;
- 1.18 “**polling day**” means the day proclaimed by the President in terms of [section 49\(2\)](#) of the Constitution, as read with [section 17](#) of the Electoral Act, as being the day on which voting for the National Assembly will take place;
- 1.19 “**political advertisement**” means a political advertisement as defined in the IBA Act;
- 1.20 “**prime time**” means the periods set out in [Annexure “A”](#);
- 1.21 “**SABC**” means the South African Broadcasting Corporation, a statutory body incorporated in terms of the Broadcasting Act 4 of 1999, as amended;
- 1A.** The Election Broadcast Period for the 2004 General Elections shall commence at 05h00 Monday 16th February 2004 and end at 06h00 on Monday 12th April 2004.

2. Interpretation

Every person interpreting or applying these Regulations shall do so in a manner that is consistent with, gives effect to and takes into account the provisions of the Constitution, the IBA Act, the Broadcasting Act and the Electoral Code.

3. General provisions in respect of political advertisements and party election broadcasts

- 3.1 Any party that wishes to have a political advertisement or a party election broadcast transmitted by a broadcaster shall submit that political advertisement or party election broadcast to the broadcaster concerned, pre-recorded and:
- 3.1.1 in a form and manner that complies with that broadcaster’s technical standards acceptable to that broadcaster;
 - 3.1.2 in completed form, ready for broadcast; and
 - 3.1.3 at least 96 hours before the time when that political advertisement or party election broadcast is to be transmitted.
- 3.2 Every broadcaster, other than the SABC, must indicate to the Authority whether or not it will transmit party election broadcasts by not later than 13 February 2004.
- 3.3 Every broadcaster that is required, or intends, to transmit political advertisements or party election broadcasts shall, by no later than 13 February 2004 notify the Authority

in writing of its technical standards as contemplated in Regulation 3.1.1. If the Authority is of the view that a broadcaster's technical standards are unreasonable, the Authority shall notify that broadcaster accordingly in writing and shall direct that broadcaster to amend its technical standards.

- 3.4 Every political advertisement or party election broadcast submitted by a party to a broadcaster for transmission shall be prepared by, or at the instance and request of, that party.
- 3.5 No broadcaster to whom a political advertisement or party election broadcast has been submitted by a party shall in any way edit or alter that political advertisement or party election broadcast, whether before or after transmission.
- 3.6 Every broadcaster to whom a political advertisement or party election broadcast has been submitted by a party for transmission shall be entitled to reject and refuse to transmit that political advertisement or party election broadcast if it does not comply with the broadcaster's reasonable technical standards, with the Constitution, these Regulations, the IBA Act, the Broadcasting Act or with the Electoral Code.
- 3.7 Any broadcaster who rejects any political advertisement or party election broadcast submitted to it by a party for transmission shall, within 24 hours of such submission:
 - 3.7.1 furnish the party that submitted the political advertisement or party election broadcast concerned to that broadcaster with written reasons for such rejection, and that party shall be entitled to alter or edit the political advertisement or party election broadcast and again submit it to the broadcaster concerned at least 24 hours before the time when it is to be transmitted;
 - 3.7.2 in the event of the broadcaster rejecting an altered or edited political advertisement or party election broadcast in terms of Regulation 3.7.1, notify the Authority of such rejection by furnishing the Authority with a copy of the written reasons given for that rejection;
 - 3.7.3 any party whose party election broadcast has been rejected by a broadcaster under this regulation may refer the matter to the Authority in terms of Regulation 6.
- 3.8 A party that submits a political advertisement or party election broadcast to a broadcaster for transmission shall ensure that the political advertisement or party election broadcast does not:
 - 3.8.1 contravene the provisions of item 9 of the Electoral Code, the Constitution, the IBA Act and the Broadcasting Act; or

- 3.8.2 contain any material that is calculated, or that in the ordinary course of things is likely, to provoke or incite any unlawful, illegal or criminal act, or that may be perceived as condoning or lending support to any such act.
- 3.9 Neither any party that submits a political advertisement or a party election broadcast to a broadcaster for transmission, nor any member or official of any such party, shall have any claim against that broadcaster arising from the transmission by it of that political advertisement or party election broadcast.
- 3.10 Every party that submits a political advertisement or a party election broadcast to a broadcaster for transmission shall be deemed to have indemnified that broadcaster against any cost, damage or loss incurred or sustained by that broadcaster as a result of any claim which a third party may bring against it arising from the transmission of that political advertisement or party election broadcast by that broadcaster.
- 3.11 Neither any party, nor any member or official of any party shall have any claim against a broadcaster arising from the transmission by that broadcaster of any political advertisement or party election broadcast.
- 3.12 No political advertisements or party election broadcasts may be transmitted after the end of the election broadcast period.

4. Specific provisions in respect of party election broadcasts

- 4.1 Party election broadcasts may only be transmitted during the election broadcast period.
- 4.2 Every broadcaster who transmits party election broadcasts shall:
- 4.2.1 make available, on every day throughout the election broadcast period four time-slots of two minutes each for the transmission of election broadcasts, provided that the Authority shall be entitled to prescribe by regulation an increased number of daily time-slots for the transmission of election broadcasts;
 - 4.2.2 do so in accordance with the sequence and timing prescribed by the Authority in terms of Regulation 5;
 - 4.2.3 ensure that all party election broadcasts transmitted by it are clearly identified as party election broadcasts;
 - 4.2.4 ensure that all party election broadcasts transmitted by it are identified or announced in a similar manner both at their introduction and at their conclusion.
- 4.3 No single party election broadcast transmitted by a broadcaster shall exceed two minutes in duration.

- 4.4 No broadcaster may transmit a party election broadcast immediately before or after another party election broadcast or immediately before or after a political advertisement.
- 4.5 No party shall be obliged to use the air-time allocated to it in terms of Regulation 5 for the transmission of party election broadcasts, provided that:
- 4.5.1 any air-time allocated to but not used by a party shall be forfeited;
- 4.5.2 if any party does not wish to use any air-time allocated to it, such air-time shall not be allocated to another party but shall be used by the broadcaster concerned for the purpose of transmitting conventional programming or material;
- 4.5.3 if any party does not wish to use any air-time allocated to it, the broadcaster concerned shall not, during the relevant time-slot, in any way vary the sequence or scheduling of party election broadcast transmissions determined in accordance with these Regulations.
- 4.6 Neither any broadcaster nor any party shall permit or engage in any interference with, or trading in, the sequence or scheduling of party election broadcast transmissions determined in accordance with these Regulations.

5. Allocation of air-time in respect of party election broadcasts

- 5.1 Air-time in respect of party election broadcasts shall be allocated by the Authority to the various parties contesting the national and provincial elections on the basis of the respective: formulae set out in Annexure B.
- 5.2 The Authority shall, as soon as may be reasonably practicable, after the date referred to in [section 27\(1\)](#) of the Electoral Act, publish a notice setting out the air-time allocation in respect of party election broadcasts.
- 5.3 Once the submissions of lists of candidates has been closed under [section 27](#) of the Electoral Act the Authority shall;
- 5.3.1 determine the sequence in which party election broadcasts are to be transmitted for the entire election broadcast period;
- 5.3.2 notify the broadcasters concerned in writing of such sequence.
- 5.4 The determination which is to be made by the Authority in terms of Regulation 5.3 shall be made:
- 5.4.1 by the drawing of lots;

5.4.2 in the presence of an official of the Commission designated by the Commission for that purpose.

5.5 The Authority shall notify the representatives referred to in Regulation 7.1 of the time when and place where the determination referred to in Regulation 5.3 will be made, and such representatives shall be entitled to be present when such determination is made.

6. Mediation

6.1 In the event of a broadcaster rejecting or refusing to transmit any political advertisement or party election broadcast submitted to it by a party for transmission, the party may:

6.1.1 refer the matter to the Authority in writing within 24 hours of being notified by the broadcaster of such rejection and the Authority shall attempt to resolve the matter in any manner it may consider appropriate;

6.1.2 in the event of the Authority being unable to resolve a matter in terms of Regulation 6.1.1 it shall refer the matter to the BMCC and the BMCC shall deal with the matter in accordance with any procedure which the BMCC may consider appropriate.

6.2 In the event of any dispute arising between any party and any broadcaster, in respect of any matter governed by these Regulations, or in the event of any person being aggrieved by any act performed by any person in terms of these Regulations, or in the event of any dispute arising regarding the interpretation or application of these Regulations, any person who has a material interest in the matter shall be entitled to refer the matter to the Authority within 24 hours of the dispute or grievance arising.

6.2:1 the Authority shall attempt to resolve the dispute or grievance in any manner it may consider appropriate;

6.2.2 in the event of the Authority being unable to resolve a matter in terms of Regulation 6.2.1 it shall refer the matter to the BMCC and the BMCC shall deal with the matter in accordance with any procedure which the BMCC may consider appropriate.

6.3 No person may seek relief in a court of law in respect of any rejection, dispute or grievance arising from the interpretation or application of these regulations unless the applicable procedures set out in these Regulations have been exhausted.

7. General

7.1 Every broadcaster and every party shall:

- 7.1.1 nominate a person who shall be the representative of that broadcaster or party in respect of all matters regulated by, or arising from, these Regulations;
- 7.1.2 by no later than 13 February 2004 notify the Authority in writing of the name, physical and postal address, telephone number and, where available, cellular phone number and e-mail address of that person.
- 7.2 Every broadcaster shall take reasonable steps to ensure compliance by that broadcaster with these Regulations to the extent that they may be applicable to that broadcaster.
- 7.3 Every broadcaster who transmits news or current affairs programmes in respect of the elections shall do so in an impartial and objective manner and in a manner which treats all parties fairly. In complying with this obligation, broadcasters should have regard to the guidelines set out in [Annexure C](#).

8. Short title

These regulations are called Party Elections Broadcasts and Political Advertisements Regulations, 2004.

[ANNEXURE A](#)

LIST OF REGIONAL AND NATIONAL STATIONS AS WELL AS THEIR PRIME LISTENERSHIP TIMES

[ANNEXURE B](#)

NATIONAL AND REGIONAL STATIONS FORMULAE TO CALCULATE THE ALLOCATION OF PARTY ELECTION BROADCASTS

[ANNEXURE C](#)

GUIDELINES

BROADCASTING ACT 4 OF 1999

INDEPENDENT COMMUNICATIONS AUTHORITY OF SOUTH AFRICA

NOTICE OF PUBLICATION OF SPORTS BROADCASTING RIGHTS REGULATIONS

Published under General Notice 2029 in *Government Gazette* 25249 of 25 July 2003.

In accordance with [section 28](#) of the Independent Broadcasting Authority Act, No. 153 of 1993, and [section 30\(7\)](#) of the Broadcasting Act, No. 584 of 1999, the Independent Communications Authority of South Africa (“the Authority”) hereby publishes its Regulations on Sports Broadcasting Rights.

Interested parties are invited to obtain from the Authority a copy of the Position Paper and Regulations, or to visit the Authority’s website www.icasa.org.za

The Position Paper has also been translated into the following languages:

1. Tshivenda;
2. Sepedi;
3. isiXhosa;
4. Xitsonga; and
5. Afrikaans.

Questions should be directed to:

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ICASA SPORTS BROADCASTING RIGHTS REGULATIONS, 2003

The Independent Communications Authority of South Africa has in terms of [section 30](#)(7) of the Broadcasting Act, (Act No. 4 of 1999) read with [section 78](#)(1) of the Independent Broadcasting Authority Act, 1993 (Act No. 153 of 1993) made the regulations in the Schedule.

SCHEDULE

- [1. Preamble](#)
- [2. Definitions](#)
- [3. Criteria for Determining National Sporting Events](#)
- [4. National Sporting Events](#)
- [5. Conditions for Listing](#)
- [6. Removal and Addition of Event\(s\)](#)
- [7. Monitoring Compliance with the Regulations](#)
- [8. Records](#)
- [9. Review of Regulations](#)
- [10. Effective Date](#)
- [11. Application](#)
- [12. Short Title](#)

1. Preamble

The objectives of these regulations are to identify and list national sporting events and to regulate the broadcasting of national sporting events in South Africa. The regulations formally list sporting events which:

- 1.1 have been identified as national sporting events;

- 1.2 cannot be acquired exclusively for broadcasting by subscription television broadcasting licensees; and
- 1.3 must be broadcast live or delayed live or delayed by free-to-air television broadcasting licensees.

2. Definitions

In these regulations any word to which a meaning has been assigned in the Independent Broadcasting Authority Act (Act 153 of 1993) and the Broadcasting Act (No. 4 of 1999) shall have that meaning unless the context indicates otherwise.

- 2.1 **“CAF”** means the Confederation of African Football;
- 2.2 **“FIFA”** means the Federation of International Football Associations;
- 2.3 **“delayed”** means broadcasting the full sporting event not more than two hours after the completion of the event;
- 2.4 **“delayed live”** means commencing broadcasting the full sporting event halfway through the completion of that event;
- 2.5 **“free-to-air television broadcasting licensee”** means a licensee who, at all times, provides a television broadcasting service capable of being received without payment of subscription fees;
- 2.6 **“the ICC”** means the International Cricket Council;
- 2.7 **“the IRB”** means the International Rugby Board;
- 2.8 **“the list”** means the list of national sporting events set out under regulation 4;
- 2.9 **“live”** means broadcasting the sporting event as it happens and in full;
- 2.10 **“national sporting events”** means listed sporting events as identified in the public interest from time to time by the Authority in consultation with the Minister of Communications and the Minister of Sport and in accordance with the regulations determined by the Authority through a public process;
- 2.11 **“subscription television broadcasting licensee”** means a licensee who provides a broadcasting service to an end user upon the payment of a fee;
- 2.12 **“the Broadcasting Act”** means the Broadcasting Act, 1999 (Act No. 4 of 1999);
- 2.13 **“the IBA Act”** means the Independent Broadcasting Authority Act, 1993 (Act No. 153 of 1993)

3. Criteria for Determining National Sporting Events

3.1 The Authority has used the following criteria in determining sports events that are national sporting events:

- (i) the event must involve the South African national senior team; or
- (ii) the event must be the final of a national knockout competition; or
- (iii) the event must be the final of an international knockout competition featuring a South African team; and
- (iv) the event must be appropriate to list, given its structure and duration; and
- (v) the event must be played in South Africa (except for the FIFA World Cup, IRB Rugby World Cup, ICC Cricket World Cup, the African Cup of Nations, the Commonwealth Games, the Olympic Games, the All Africa Games, the CAF Champions League Final and Mandela Cup Final (if a South African team is involved) and the Rugby Super 12 final (if a South African team is involved)).

4. National Sporting Events

In terms of [section 30\(7\)](#) of the Broadcasting Act, the following sporting events are hereby declared national sporting events:

4.1 the Summer Olympic Games;

4.2 Commonwealth Games;

4.3 All Africa Games;

4.4 With regard to the FIFA World CUP, the African Cup of Nations, the IRB Rugby World Cup, and the ICC Cricket World Cup:

- (i) All South African team matches;
- (ii) Opening match
- (iii) Two quarter finals;
- (iv) One semi-final;
- (v) 3rd and 4th position playoff, if South Africa is involved;
- (vi) Final match; and

(vii) Opening and closing ceremonies.

4.5 Finals of the following national knockout competitions:

- (i) ABSA Cup (soccer);
- (ii) Coca Cola Cup (soccer);
- (iii) SAA Super Eight Cup (soccer);
- (iv) Currie Cup (rugby); and
- (v) Standard Bank Cup (cricket).

4.6 Finals of the following international knockout competitions (if a South African team is involved):

- (i) CAF Champions League (soccer);
- (ii) CAF Cup Winners Cup (soccer); and
- (iii) The Super 12 (rugby).

4.7 International Events

- (i) Soccer: all international matches played in South Africa involving the senior South African national team;
- (ii) Rugby: all international matches played in South Africa involving the senior South African national team;
- (iii) Cricket: all one day international matches played in South Africa involving the senior South African national team;
- (vi) Netball: all international matches played in South Africa involving the senior South African national team.

4.8 Athletics

- (i) The Comrades Marathon; and
- (ii) The Two Oceans Marathon, Provided that these regulations will continue to apply irrespective of any name or sponsor changes to the listed events.

5. Conditions for Listing

Listed events shall be broadcast live or delayed live or delayed by free-to-air television broadcasting licensees. In the case of an event which consists of defined, separate parts which overlap in time (for example, the Olympic Games, the Commonwealth Games and the All Africa Games) and cannot therefore be televised simultaneously live or delayed live or delayed, the Authority shall take into account the extent of live coverage or delayed live coverage or delayed coverage of those matches or events involving South African teams and individuals representing South Africa.

6. Removal and Addition of Event(s)

- 6.1 Listed events may be removed from the list by the Authority after a successful application by an interested party.
- 6.2 After the publication of a monitoring report in terms of regulation 7 the Authority may also, by notice in the *Gazette*, announce its intention to remove an event or events from the list;
- 6.3 All applications to remove an event or events from the list shall be made in a form and according to a procedure to be determined by the Authority by notice in the *Gazette*.
- 6.4 In deciding whether to remove an event or events from the list, the Authority shall consider:
 - (i) whether the event was broadcast live or delayed live or delayed;
 - (ii) whether the matches involving the senior South African national team in a multi-match event were broadcast live or delayed live or delayed;
 - (iii) whether some matches in a multi-match event, not involving the senior South African team, were broadcast live or delayed live or delayed;
 - (iv) submissions from all interested parties, including the Minister of Communications and the Minister of Sport and Recreation; and
 - (v) any other factors that the Authority may consider relevant when taking into account public interest objectives, including those set out in the IBA Act and the Broadcasting Act.
- 6.5 Applications for the removal of an event or events from the list may only be made once a year by an interested party during a specified 'window period' to be determined by the Authority by notice in the *Gazette*.

- 6.6 The 'window period' referred to in regulation 6.5 will also apply to any notice issued by the Authority when the Authority intends to remove an event or events from the list.
- 6.7 No party may apply to have an event added to the list until the review of these regulations as contemplated in regulation 9.

7. Monitoring Compliance with the Regulations

- 7.1 The Authority shall monitor broadcasting licensees' compliance with the regulations.
- 7.2 The Authority shall issue annual reports on:
- (i) the extent to which events on the list have been acquired by free-to-air television broadcasting licensees;
 - (ii) the extent to which those events for which the rights have been acquired or offered have been televised by free-to-air television broadcasting licensees; and
 - (iii) whether there are grounds for the Authority to remove events from the list.

8. Records

Public and commercial free-to-air television broadcasting licensees and subscription television broadcasting licensees must keep and maintain logs, statistical forms and programme records in a format to be determined by the Authority. These logs, forms and records shall include:

- (i) full particulars of all national sporting events broadcast during each quarter;
- (ii) full particulars of rights offered to free-to-air television broadcasting licensees by subscription television broadcasting licensees and the extent to which the rights were acquired; and
- (iii) the extent to which those events, for which the rights have been acquired, have been televised by free-to-air television broadcasting licensees.

9. Review of Regulations

- 9.1 The Authority may, every successive four years after these regulations have come into effect, hold an inquiry to review these regulations in terms of [section 28](#) of the IBA Act and [section 30\(7\)](#) of the Broadcasting Act.
- 9.2 The Authority shall consider submissions made by licensees, sports bodies and any interested person and may make any amendment to the regulations it considers to be in accordance with the public interest as enunciated in the IBA Act and the Broadcasting

Act. Such amendments shall be made after consultation with the Minister of Communications and the Minister of Sport and Recreation.

10. Effective Date

The effective date of these regulations shall be the date of publication in the *Gazette*.

11. Application

These regulations shall only apply to broadcasting rights that have been acquired after the effective date.

12. Short Title

These regulations will be called the Sports Broadcasting Rights Regulations, 2003.