THE FUTURE OF SOUTH AFRICAN CONTENT IN A NEW BROADCASTING AND CONVERGENCE ENVIRONMENT

15 August 2007

SETTING A COURSE FOR SUSTAINABILITY.

Who we are:

We are the producers of local content with the exclusion of News and Sport which is produced by the broadcasters. We produce Drama, Actuality, Documentary, Children and Youth, Variety, Entertainment and Educational programmes.

IPO
Independent Producers Organisation - constituent is made up of medium size enterprises.

TPA
The Producers Alliance - constituent is predominantly small and macro enterprises.

Collectively we represent over 100 production entities and produce approx 80% of all local content in SA.

Producers create the conditions for making movies or television shows. The producer initiates, coordinates, supervises and controls matters such as idea development, scripting, budgeting, raising funding/pitching to broadcasters, hiring key personnel and cast, shoot supervision, the overall quality and survivability of a production, arranging for distributors, delivery of the final product.

Producers are involved throughout **all** phases of the filmmaking process from development to completion of a project.

Independent Production Companies are the businesses that producers run in order to make content.

Why we are here

- **We are concerned with the sustainability and growth of our sector.**

Our current business model is not conducive to growth or sustainability.

In short: We operate on a model where our industry is service provider to the broadcasters, mainly to a monopoly, who commission work and extract value from this work created and produced by the service providers, whilst simultaneously setting the terms of trade and conditions in which this work is manufactured.

This is suffocating the independent production industry and thus we believe our current model is completely disempowering.

We're not here to talk news and sports. We're here to talk about the state of our television soul – the local dramas, documentaries, educational, children, talk, music, variety and entertainment programmes we see on our screens…

The programmes we are seeing today?

And those that we will be seeing next year? And in five years time?

- **We are here to present our view of the current status of the Independent Film and Television production sector, the challenges that face our immediate and future sustainability, and the vision for our future growth and sustainability.**

- **We are here to seek government support and intervention where appropriate.**

The Role of Independent Production and Producers

- We are the eyes, ears and mouthpiece of our cultural world, the collators of our history, living within communities, gathering & curating our stories and committing them to our collective memories through the audio visual medium.

- We develop, create and manufacture local content.

- We investigate, educate, inspire and challenge.

- We are the interpreters of our society through documentaries and drama. It is through our stories that the needs and aspirations of the people of South Africa are articulated

- We are the agents for mainstreaming our arts, culture, heritage and informational activities within the broader government goals of social and economic development, nation-building, social cohesion, national identity and the role of South Africa internationally.

Our role is not only that of supplier to the broadcasters, but that of the custodians and conveyors of South African Stories, in our own languages – both spoken and visual. It is our role to nurture creativity and innovation and to promote the diverse heritage of our nation.

However, capturing our stories and memories is not without its own distinctive challenges. Most people will agree that how we depict ourselves, the choice of language, traditions and values is a very sensitive and emotive issue. We therefore have to ensure a production sector that is invested and committed.

It is the stories we capture that define who we are, where we come from and where we ought to go.

> Deputy Minister of Arts and Culture Mrs Ntombazana Botha: "In the context of the African Renaissance, our challenge is to reclaim and embrace the rich African heritage which we were denied for centuries by Eurocentric perspectives, colonial racism and racial domination.
>
> We are uniquely poised to contribute towards social cohesion and sustainable development here at home, and towards better understanding, tolerance and peace among the nations of this continent and, indeed, the world"

BUT, we are not an industry of art and culture alone, we are an industry whose key role is creating content for the SA public mainly communicated via the broadcasters. Educational, Entertainment, Drama, Documentaries, etc.

Deloitte in a recent survey estimated the Audio Visual industry at 5.5 billion, with a multiplier of 2.5 that means our industry generates in excess of 12 billion Rand's worth of economic activity per year.

The Challenge

- To create sustainability in our industry that will lead to growth and development.
- To create employment and minimize underemployment.
- To speed up transformation.
- To seize the opportunities created by Government through initiatives such as AsgiSA and grow the production sector to be a truly independent and economically profitable industry; creating jobs, attracting investment and penetrating international markets.
- To capture our rich cultural heritage.
- To ensure that ownership of intellectual property vests in the creators thus empowering and creating long term viability.
- To make our industry more alluring for story tellers and investors.
- To access capital for development and research.
- To ensure that the South African public has a choice.
- The creation of small, medium and micro enterprises (SMMEs) and self-sustaining jobs for people in the cultural, arts and heritage sectors.

The Global Industry

Content creators the world over are gearing up for the increased demand in content, largely precipitated by new media platforms and digital convergence.

Cultural identity is increasingly watered down in this process as global brands push their way to the fore – however equally significant, is that it is through these platforms that cultural identity is most strongly determined and communicated.

The understanding that electronic media and those who control it have huge influence over the views of the public has always been understood. However, increasingly the emergence of new platforms has meant that the role of the producers and the production industry has shifted to the centre of importance in the value chain.

Therefore massive gearing up of the production industry has been seen in countries such as the UK, China and South America as content providers fortify for the growing demands of the new platforms.

This requires up-skilling, investment in intellectual and artistic wisdom, and high end business expertise.

Content is being democratized globally and there is a threat of proliferation of global television brands/content. Those that have the means and are able - will dominate the content environment. Thus many countries are strengthening local content in the broadcast arena to prevent big global players from dominance.

The South African Industry

Mirroring the international industry we are on the brink of the new media explosion which will push content creators into the centre of the value chain.

Coupled with the new broadcast licenses soon to come into play and the imminent advent of regional television there is a growing demand for reliable high quality expertise.

Currently the primary consumer of local content is the SABC and this largely determines the terms of trade for the entire industry.

To meet the needs of the new era of communication and increased requirements we need to have a production industry that is reliable, solid, innovative, accountable and smart.

What does this really mean? It means businesses with both creative and business skills. Businesses that are incentivised to up-skill, to invest in technology and to invest in intellectual capital so as to provide content – efficiently, reliably and accountably.

Transformation

Whilst we may have made early strides in equity ownership, the challenge has been to transfer skills throughout the value chain of our industry.

Our film and television industry, like most of South Africa, is a product of politics, history, cultural, social and economic processes, thus we are bound to meet challenges as we drive transformation.

Still combating the effects of apartheid where the terrain of broadcasting and production was exclusively white, our industry is only now starting to get on top of real skills development and meaningful transformation.

Disturbingly in the key artistic, management and technical areas we are still sadly lacking, seemingly not able to lure/or retain talent. People with skills and talent are not attracted to our industry, we do not offer financial rewards comparable to advertising or international production or the financial or IT sectors, and we do not offer stability and growth.

The IPO, TPA and affiliate industry organisation SASFED (South African Screen Federation) have developed a BBBEE policy which we are currently formalising as part of our industry's charter.

However, in spite of a legacy of fragmentation and limited resources, we have achieved unity of purpose within the main contributors of our industry. The diversity that once threatened to divide us has, to some extent, been harnessed to become a source of strength and pride.

How we have changed the face of our nation

In a world where American content is King, 80% of the top 10 television shows on SABC are local.

Amongst them are: Generations, Family Bonds, Zone 14, Zola 7, Muvhango, Sewende Laan, Going Up, Isidingo. (Screen Africa July 2007)

The Broadcasting Act of 1999 launched important strides in changing the face of our broadcast terrain to reflect the needs and desires of local audiences. Our industry has grown and local content is supreme.

The SABC and Independent Producers were critical role-players and partners in effecting this changing face of television. With the exception of sports and news, it is the independent production sector that is at the heart of local content.

Arts & Culture, Documentary, Drama, Soap, Talk, Reality, Short Films, Comedy Children & Youth, Education. . From Generations & Isidingo, to 'Amandla: A Revolution in 4 part Harmony' & "When we were Black", From "Nomzama" to 'All you need is love'. We develop and create local content

The current predicament

The production sector is not financially stable, not able to secure investment and not sustainable.

WHY?

The main body of the production sector is made up of small and macro enterprises – close corporations, sole proprietors, joint ventures, etc, set up for freelancers to work from job to job and hand to mouth.

- They have very limited infrastructure and due to the randomness of contracts they have almost no ability to acquire skills or business acumen.
- They are unable to access capital for research and development (as currently there is no potential for return on this investment).
- They are unable to access capital for business infrastructure as there is no clear business model or system that offers reasonable guarantees for ongoing income (other that a few long running broadcast contracts such as for soap opera, talk shows, etc, and that accounts for the few medium enterprise prod co's).

If we are to be culturally responsible, we cannot rely on soft donor money.

The production sector largely relies on the three broadcasters – and in particular the SABC's – commissioning processes, which takes the form of briefs being issued 2 – 4 times per year.

There are a handful of medium size enterprises that, although sustainable due to long running contracts, are building no assets as all equity belong to the broadcaster.

The broadcasters have very tough, one sided, terms of trade – there is no charter agreed to by both parties. The general norm is that they contract for a very limited period, take all intellectual property rights in the product, pre-determine and fix profit margins, stipulate various conditions for production and delivery (the producer takes <u>all</u> production risks), and yet there is almost never a pre-agreed roll-over on the contract should all the requirements be met. Thus no matter how well you perform, you remain at the mercy of Big Brother for handouts with no chance to sustain, let alone build, an independent business.

Sadly the broadcasters have over the years developed terms and conditions for trade so onerous and one-sided that the Independent Production Industry is under real threat of collapsing.

Yet this industry is not one of poverty but one of great cultural wealth.

This is not a nice to have industry…this is a highly bankable industry with some 7 billion a year in ad spend.

Five to Six years ago advertisers were reluctant to spend on television, now they are spending on TV advertising. In 1994 ad spend was R 1937.8 Million in 2006 Ad spend was R 7701.6 Million. (SA Media Facts)

Why the increase?

We believe it is because advertisers have realized local television audiences are valuable.

And what is happening to this AD spend?

IN 2006 SABC posted an income 3.9 Billion with advertising making up 65% of the income 2.5 Billion.

We are not an industry of 'the arts' seeking to win awards, this is not about an Oscar, or a Golden Globe. We are an industry rooted in South Africa, with a viable local audience increasingly loyal to local content.

Our audiences and culture are valuable, advertisers have reacted to this, investors have reacted to this, and government via AsgiSA has reacted to this – all by investing in our industry.

Yet we are not delivering a viable self sustaining ecology from local content. We are not delivering a viable industry. WHY?

WHAT ARE THE LIMITING FACTORS?

As we have ascertained, the limiting factors are not:

- regulation.
- audiences.
- a lack of potential investors.

SO WHAT ARE THE BLOCKAGES?

A Code of Practice

"Supporting the diversity and vibrancy of the Independent Production sector is a core aspect of the Broadcasters Public Service remit. Given the mutually dependent relationship between the broadcaster and the Production sector, the broadcaster has welcomed recommendations to promote the ongoing creative and commercial growth of the Independent production sector.

The Broadcasters Code of Practice is based on the following key principles and are designed to support the creative and commercial aspirations of the broadcasters supply base:

- Clarity over the different categories of rights that the broadcaster is seeking to secure in programmes it commissions from independent producers
- Clarity over the duration for which the broadcaster seeks to secure these different categories of rights
- Clarity over the prices that the broadcaster is willing to pay for these different categories of rights
- A clear commissioning process with a reasonable timetable for negotiations
- Provisions for monitoring the application of this Code and resolving any disputes

The broadcaster hopes that Producers will welcome these principles and expects the following benefits to flow to Producers:

- Producers able to build valuable rights catalogues / archives
- Producers able to choose the deal structure that best supports their creative and commercial aspirations for a given project
- Producers participating more fully in the value of their secondary rights
- Producers finding the broadcaster professional and timely to do business with. "

The above segment is taken from the UK's Public Service Broadcaster Channel 4 Code of Practice for Commissioning.

The Independent Producers and the SABC

The Independent Production Sector has put our issues to the SABC executive.

We have met on numerous occasions to try and find a common solution. And we have indeed jointly mapped out some potential steps to be taken to seek a resolve to the more immediate issues.

In June, as a result of a meeting brokered by the acting chairperson of the Portfolio Committee, the IPO and TPA – met with the SABC executive and expressed our growing concern about the long term sustainability and growth of the sector.

The meeting concluded with the SABC executive and our delegation agreeing that the industry needed to map out solutions for broad growth and sustainability (taking into account other broadcasters), to find a common blue sky for a healthy independent sector.

There were many fundamental points on which all are in agreement.

a. Grow the industry
b. Empower young/black/new producers & talent
c. Avoid excessive concentration of power and wealth
d. Express national identity
e. Transparency
f. Creation of sustainable SMMEs and self-sustaining jobs for people.

WHY/WHERE IS THERE DISAGREEMENT?

SABC has the intent of total citizen empowerment. We applaud and agree with this.

In it's discourse the SABC seeks to empower/manage/uplift and to be efficient. We applaud and agree with this intent.

However the implementation of the day to day activities of the SABC does not enable this, and at its core the issue lies in:

SABC **operating models** reduce producers (individuals and companies) to that of (their) “agents/brokers” or “contractors” or “employees/external staff” and does not allow for independent viable businesses in their own right. (i.e. like employed bricklayers, not independent property developers).

1. Contracts are one-sided
2. Operations are ‘patronising’ and not enabling
3. Independence is limited
4. Margins are set (ie cost-plus) at a very low rate.
5. IP is 100% taken by SABC

We understand the SABC’s intent.

- They worry about young/inexperienced/un-empowered entrants into the market
- They are concerned with efficiency and assume that micro management will ensure this.
- They are under pressure to meet ICASA regulations and deliver on a mandate within certain fiscal constraints.
- Managing IP is difficult and thorny – it is much simpler to control everything.

However

The Independent industry believes that the increased control, the lack of creator ownership and the heavy handed management policy is at the core of the problems we face with sustainability and also a contributor to their own inefficiencies.

<u>WHY?</u>

Industry structure

a. The broadcast industry in SA is not a normal, open-competition industry.
b. It is dominated by a single, government-owned buyer with a mixed mandate to communicate/make channels/languages etc and to make profits. The broadcaster is close to a monopoly when it comes to commissioning content.
c. In any industry that is structured like this, the monopoly position has to be *regulated* by government. (Electricity, bandwidth, water – eg's of regulated industries around the world.)
d. The current regulation structure leads to the problems. This is actually HOLDING BACK the industry rather than helping it.

Margins

- A production company cannot grow sustainably if it has too low and inflexible margins. The cost of capital (ie the interest rate on money borrowed) is too high for a 6% - 10% margin. Investors would rather put the money in the bank.

- Companies become like 'teams of freelancers' – they are only as good as the current job, and when they are not working, there is no income.

IP

- There is no ability for production companies to differentiate on quality rather than quantity and efficiency. (Eg – if Prod A paints a picture of a cat and B the Mona Lisa, they would both get same %)
- Their IP has no 'capital value' and they are all doomed to being actually 'consultants' for ever.
- The SABC has neither in the past nor currently done much to exploit the IP, and so it is lost to both the creators and the SABC

While SABC does not specify its income from sales of content, total revenue for sale of goods for 2006 (ie; the income not derived from advertising, sponsorship, grants and licence fees) amounted to only R99 Million.

Thus we conclude that the SABC do not exploit the multiple IP rights they own outside of broadcast. Yet SABC, and other broadcasters deny these rights to the creators, thereby preventing anyone to earn from their potential exploitation.

We believe this is a tragic under utilization of a national asset that in the hand of it's creators can make substantial difference to their sustainability and investability.

So how should this change?

- The independent production sector must be recognised as businesses operating in an equally competitive environment and terms of trade need to reflect this.

- IP must either rest with the creator/s or ultimately accrue to the creator/s.

Why will this be better?

Operational

1. This will allow greater independence, accumulation of skills and be less onerous and costly for the SABC to manage.
2. It is well known that SME's (mainly medium, not small and certainly not micro) are the main creators of employment.

IP

1. Puts 'Mona Lisa' in the hands of the painter too. This is empowering and economically and morally correct.
2. Will potentially increase the IP value, which is of benefit to all including the broadcasters, on the principle that the owners of IP will be more invested in exploiting their properties in collaboration than feeling 'disempowered'.
3. It will allow the industry, the SMME's to explore and grow taking advantage of the other opportunities that government has made available for development.

So why are we here?

Because we cannot reasonably expect the SABC or any of the broadcasters to negotiate difficult changes with the independent production industry as outlined above without mediation.

Their natural position, quite understandably will be protectionist, they are doing their jobs to negotiate the best deal for SABC to ensure that they are commercially competitive.

As SABC are our main client, we in turn are tentative in negotiation. And we too have commercial interests.

Whilst we have found the SABC exec willing and forthcoming in discussions around these issues, the actual process of designing and implementing change is not happening. We have been in discussion on some of the issues for over 2 years.

While these processes are being discussed with little or no movement our industry is stagnating and collapsing. This is seen in small but significant ways such as our local Film and TV market Sithengi closing it's doors.

We are asking parliament for a commitment to interrogate the current industry/broadcaster model with ourselves and the broadcasters with a view to reshape and redesign it to create a globally competitive growth model.

We want to subject ourselves and the broadcasters to a process that turns out a vibrant and viable independent industry that is self sustaining.

THANK YOU