



INDEPENDENT COMMUNICATIONS AUTHORITY OF SOUTH AFRICA

Briefing to the Parliamentary Portfolio Committee on Communications

“SABC’s Regulatory Compliance & Monitoring”

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Presentation Outline

1. Legislative Overview
2. Universal Service Mandate
3. SABC Licence Terms and Conditions
4. Content Monitoring
5. SABC TV Programming Obligations
6. ICASA Ruling – Media Monitoring Project v SABC



The Constitution of the Republic of South Africa, 1996:

192. Broadcasting Authority

National legislation must establish an independent authority to regulate broadcasting in the public interest, and to ensure fairness and a diversity of views broadly representing South African society.



Electronic Communications Act, 2005 - section 2(s)(ii) directs ICASA to ensure that broadcasting services provide for regular:

- news services
- actuality programmes on matters of public interest
- programmes on political matters on public interest
- programmes on matters of international, national, regional and local significance

Broadcasting Act, 1999 - Chapter IV sets out the charter for Public Broadcasting Services and requires that the SABC programming content:

- reflects SA attitudes, opinions, ideas, values and artistic creativity
- Advances the national and public interest
- Promotes the rights of all South Africans to receive and impart information and ideas
- Provide for a wide range of audience interests, beliefs and perspectives
- Reflect a high standard of accuracy, fairness and impartiality in news that deal with matters of public interest



The SABC has a public broadcasting service mandate with associated extensive Universal Service Obligations (USOs) including:

- obligation to provide coverage to 100% of the population
- obligation to cater for all South African languages, particularly “marginalised” languages, through its national and regional licences
- obligation to cater for minority groups, children, women and people with disabilities

ICASA is obliged to monitor and enforce compliance by the SABC with the Charter of the Corporation (section 6(2) of the Broadcasting Act) to amongst others:

- contribute to democracy, development of society and nation building
- safeguard, enrich and strengthen the cultural, political, social and economic fabric of South Africa
- ensure plurality of news, views and information and provide a wide range of entertainment and education programmes



Programming Obligations

Financial Obligations

Complaints Handling
Obligations

Human Resource
Obligations

Training and Employment
Equity Obligations



SABC TV Licence Conditions Programming Obligations



Category	SABC 1	SABC 2	SABC 3
NEWS	7h / week (3hrs 30 min in prime time packaged as a single programme daily)	Same as SABC 1	Same as SABC 1
CURRENT AFFAIRS	5h / week (2hrs in prime time)	Same as SABC 1	5h / week (1hr in prime time)
INFORMAL KNOWLEDGE BUILDING	16h / week (2hrs in prime time)	18h / week (2hrs in prime time)	12h / week (2hrs in prime time)
DOCUMENTARY	4h / week (2hrs in prime time)	5h / week (2hrs in prime time)	5h / week (2hrs in prime time)
DRAMA	24h / week (8hrs in prime time & 4h S.A. in prime time)	Same as SABC 1	Same as SABC 1
CHILDREN'S	20hrs / week	15h / week	12hrs / week
EDUCATIONAL	10hrs / week	10h / week	None



Overall Local Content percentages measured annually as per current effective Regulations- 2006 the new Regulations are effective 24 months from March 2016 which is March 2018:

Overall percentages measured annually:

- Public = 55% (SABC 1 & 2)
- Commercial = 35% SABC 3

Weekly programming breakdown:

Programme Type	Public Service	Commercial Service
S.A. Drama	35%	20%
Children's Programming	55%	25%
Documentary Programming	50%	30%
Informal Knowledge Building	50%	30%
Current Affairs	80%	50%
Educational Programming	60%	-



Methodology to Measure Local Content on TV



- ❑ Sec 61(2)(a) of the Electronic Communications Act No. 13 of 2005 provides that “Local television content” means a television a television programme, excluding transmission of sporting events and compilations thereof, advertisements, teletext and continuity announcements
- ❑ In measuring compliance with the Local content quotas for TV services and in complying with the provisions set out in Sec 61(2) (a) , the Authority’s methodology is premised on actual programme time as opposed to programme length



Complaint Against SABC: Background, Process & Latest Developments



- ❑ On **26 May 2016**, the SABC issued a media statement indicating that it will no longer broadcast footage of destruction of public property during protests. The SABC believed that the broadcast of destruction of property constituted an act of encouragement by the public broadcaster and continuing to broadcast such footage of destruction might encourage other communities to do the same

- ❑ On **24 June 2016**, the Complaints and Compliance Committee (CCC) heard the complaint lodged by the following complainants: (i) **The Media Monitoring Project Benefit Trust**, (ii) **S.O.S Support Public Broadcasting Coalition** and (iii) **Freedom of Expression Institute**

- ❑ On **03 July 2016**, the CCC made its findings regarding the complaint against the SABC

- ❑ On **11 July 2016**, the Authority issued a media statement endorsing the recommendations by the CCC



Decision A:

Direct the SABC to withdraw its resolution as published in its statement of 26 May 2016, which states that *“the SABC will no longer broadcast footage of destruction of public property during protests”*.

Decision B:

The withdrawal must be done retrospectively from the date when the resolution was taken on 26 May 2016.

Decision C:

The Chairperson of the Board of the SABC must confirm in writing to Council of the Authority via the Office of the Coordinator of the CCC within seven (7) calendar days from the date on which the order is served that the resolution as endorsed by Council of the Authority was taken as ordered.



ICASA Enforcement of the Decision



- On 20 July 2016 the SABC confirmed to the Authority that it has considered the Authority's decision and would abide by it.
- Following various communications from the Authority requesting the SABC to publically withdraw its 26 May 2016 resolution and provide proof that the resolution has indeed been withdrawn (in line with Decision C), the SABC informed the Authority that it had “... *never canned any material / footage*”
- To date the SABC never provided any proof of the withdrawal of the 26 May 2016 resolution (in line with Decision C), but has instead repeatedly informed the Authority that it had not implemented the 26 May 2016 resolution.



ICASA Enforcement of the Decision - cont'



The Authority then took the following enforcement measures:

- the Authority communicated with Mr Aslam Moosajee, the Attorney for the eight (8) SABC employees who filed a Constitutional Court application on the matter against the SABC requesting any information from his clients on any further encroachment by the SABC

- the Attorney responded to inform the Authority that:
 - none of the SABC employees received any formal notification that the Protest Policy was withdrawn
 - a culture of censorship and fear continues in the SABC news rooms

- The Authority also communicated with the Parties that filed the original complaint (namely S.O.S Public Support, Freedom of Expression Institute and Media Monitoring Africa) requesting any information on continued encroachment or non-compliance by the SABC. On 5 December 2016 the MMA submitted its report to the Authority which alleged that the SABC has not complied with the Authority's Protest Ban order. The Authority is considering this report

- As the Order is not time-bound the Authority continues to monitor SABC's compliance on an on-going basis



- ❑ Despite numerous written demands to the SABC to comply with the order, the licensee failed to demonstrate compliance with the order and failed provide the Board Resolution to this effect in line with Decision C. The SABC has therefore failed to comply with the decision contemplated in section 17E of ICASA Act

- ❑ The Authority resolved to pursue criminal charges against the SABC in terms of section 17H of the ICASA Act which provides that:
 - A person is guilty of an offence if that person fails to comply with a decision made by the Authority

 - A person convicted of an offence (i.e. for failing to comply with a decision made by the Authority) is liable to a fine not exceeding R1 000 000,00 (one million Rand) or to imprisonment not exceeding 1 (one) year

- ❑ The criminal charges relate to continued failure by the SABC to comply with the Authority's order as issued on 11 July 2016 (particularly Decision C)



ICASA Enforcement of the Decision – cont'



- On or about 28 November 2016 a criminal case was opened against the SABC for contravention of Sec 17H(1)(f), read with Sec 17E of the ICASA Act
- The criminal case was opened at the Bramley Police Station (CAS 534/11/2016)
- On or about 5 December 2016, the Authority received notification from the Bramley Police Station that the file/docket had been transferred to the Brixton Police Station (CAS 519/11/2016)
- The Authority has recently made follow ups and was advised that the matter is still under investigation by the Hawks



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Thank you



- ❑ Over and above the complaint lodged with the CCC on banning of protest footage, additional complaints were lodged against the SABC during the election period, which were dealt with as follows:

Radio/ TV	Nature of complaint	Presiding	Outcome	Compliance with fine
SABC: SonderGrense	Broadcast 3 FFP political advertisement outside 48 hours before polling commenced	CCC	Fined R50,000 of which R 35,000 was suspended	Paid 15 000
SABC: Metro FM	Broadcasts DA PA followed immediately by EFF PEB	CCC	Fined R5000.00	paid
SABC: Ligwalagwala FM	Broadcast unscheduled ANC PEB	CCC	Fined R5000.00	paid
SABC: Ukhozi FM	Broadcast IFP's PA which was immediately broadcast after the EFF's PEB	CCC	Fined R5000.00	paid



APPENDIX A:

Complaints against the SABC During the Election Period



CONT'

Radio/ TV	Nature of complaint	Presiding	Outcome	Compliance with fine
SABC: Good Hope	Broadcast the ANC's PA which was immediately followed by the broadcast of the DA's PEB	CCC	The CCC found that the radio station was not negligent in having broadcast the two items directly after each other.	N/A
S.O.S Support Public Broadcasting Coalition vs SABC SOC	The adoption of the revised editorial policies and the review process which preceded that adoption was in contravention of section 6 of the Broadcasting Act and that the decision of the SABC undermines the public's statutory and constitutional right to participate in the development of these policies in terms of the Broadcasting Act.	CCC	Hearings were held on 08 December and the Judgement is still Pending	N/A
Rous House Productions vs SABC SOC	SABC's alleged decision to cancel Rous House Production's tv drama (High rollers)		The CCC is yet to set a date to hear the matter.	N/A