My name is Florence Masebe. I am an actor. I have been working in the arts for the last 25 years. I have had the honour and privilege of working in the spotlight and away from it. I still work actively as a performer in film and television works. I can comfortably say that my submission to this parliament is informed by a lifetime experience of how the industry system in the audio-visual sector is set up. My input may be that of an individual but I strongly believe that my sentiments are representative of the voices of many audio-visual performers who have not had the opportunity to put forward a submission and make their voices heard here. I make this submission for the many actors living and departed whose rights, moral and economic, have not been protected by law since the advent of television in this country more than 40 years ago.

It is the absence of a solid legislative framework that has left many hardworking actors impoverished at the end of their careers while their works continue to make profit for those who commissioned them. Many of us navigate a hand to mouth path even at what seems to be the height of our careers. The narrative of poverty in the arts continues to be one that sticks with the performers while producers and broadcasters get the creamy side of every deal. As things stand now, South African actors are owed incalculable monies by the public broadcaster for all the works that were sold to MultiChoice for the SABC Encore channel on the DSTV platform. There is still no clear position from the public broadcaster on when and whether any of the performers whose works are being rebroadcast on SABC Encore will get their due commercial exploitation remuneration for the said works. Families of departed actors, many of whom died poor, have lost all hope of ever receiving any compensation for this.

My plea to this committee and this parliament is that you, please, save us and future generations from the blatant exploitation of actors by broadcasters who for many years took advantage of the lack of education and information amongst us. The complex relationship between performer, broadcaster and producer cannot continue to be left unregulated.

When I entered this field there were only four channels. The bulk of us depended solely on the South African Broadcasting Corporation for work for many years. During these days actor exploitation was rife. The talented legendary names that kept you entertained gifted this nation beautiful performances in the absence of any proper legal agreement or fair remuneration. The standard Freelance Performers Agreement that most industry contracts are currently based on is more than 30 years old. It was negotiated between the then Performance Art Workers Equity and the SABC. The actors who fought for this agreement at the time sought to find some regulation and standardisation of the relationship between the performance worker and the producer. This by extension would define the relationship between the performer and the commissioning broadcaster.

We now have multiples of television channels and countless viewership platforms. The old freelance agreement is as good as dead since we now operate in an environment with many players and no legal regulatory framework. Even the very SABC that made this agreement with PAWE operates in breach of this very contract. I am personally yet to earn 1 cent of commercial exploitation fees for the many dramas I worked on that have been rebroadcast over and over again. In fact the little right to repeat fees that this outdated agreement with SABC assures actors gets removed by producers without consequence.

The biggest commissioner of dramatic works outside SABC at the moment is MultiChoice. Not only do they have multiple channels here at home, they have the broadest reach into the rest of the African continent. Having done just one season of a telenovela series on this broadcaster’s platform, I can not begin to describe how cheated one feels as an actor as one watches repeat after repeat of performances for which the actors were only paid one. This is not the story of Florence Masebe alone. It is the story of every actor on each one of the nation’s favourite Mzansi Magic, 1 Magic and KykNet drama. While we battle Auckland Park to pay the little share that their contract guarantee, the Randburg broadcastershas told performers in this industry for years that they would not pay royalties since there is no law binding then to do so. It is the story of every. actor whose work is being broadcast on foreign channels by eTV. It is the story of every actor whose works are sold in undeclared deals by the SABC to in multiple deals. We need this law sooner rather than later.

I therefore make this submission in full support of the Performers Protection Amendment Bill with hope that it will ensure the following among other things.

1. Full recognition of the audio-visual performer’s right to royalties across all broadcasting channels.
2. That it sets minimum standards for all performance agreements in the audio-visual sector.
3. That it ensures an environment in which there are harsh consequences to those that contravene the law in this regard.
4. That it recognises and endorses Performer’s economic and moral rights as set out in the Beijing Treaty.

Government speaks often of the R90 billion contribution that the creative industries contribute to the country’s GDP. It is quite a shame that this impressive figure has yet to translate into a better life for the creative artists. Artists continue to be welfare cases even as such figures continue to appear in government speeches and brag sheets. An injustice against South African actors has carried on for far too long. Perhaps this bill will not magically solve all the ills of the industry. I am, however, confident that it is a crucial building block towards creating an industry in which performers are treated fairly and with dignity.

In memory of all the departed artists who could not benefit from the full value of their work, pass this bill into law.

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