



# REVISED STRATEGIC PLAN

## FINANCIAL YEARS 2022 – 2026

*The purpose of this Strategic Plan is to identify the Outcomes that the FPB seeks to achieve in the left three financial years of the MTSF, It includes the vision, mission and values of FPB.*

## Table of Contents

<b>1. Acronyms and Abbreviations .....</b>	<b>4</b>
<b>2. Accounting Authority Statement .....</b>	<b>5</b>
<b>3. Accounting Officer Statement.....</b>	<b>8</b>
<b>4. Official Sign-Off .....</b>	<b>11</b>
<b>5. SITUATIONAL ANALYSIS .....</b>	<b>12</b>
5.1 External Environment.....	13
5.2 Internal Environment .....	16
<b>6. Constitutional Mandate.....</b>	<b>19</b>
<b>7. Other Supportive Legislation .....</b>	<b>22</b>
8. Legislative and Policy Mandates .....	24
8.1 Legislative Mandates.....	24
8.2 Functions, Powers and Duties of the FPB Council: .....	24
8.3 Policy Mandate.....	26
8.4 Institutional Policies and Strategies over the five-year planning period.....	26
<b>9. Legislative Revisions .....</b>	<b>26</b>
<b>10. Relevant Court Rulings .....</b>	<b>28</b>
<b>11. Accountability Structures .....</b>	<b>29</b>
<b>12. Description of and approach to the strategic planning process .....</b>	<b>30</b>
<b>13. Organizational Identity .....</b>	<b>32</b>
13.1 Mission.....	32
13.2 Vision.....	32
13.3 Brand Promise .....	32
13.5 Values .....	32
13.6 FPB Key Priorities .....	33
<b>14. Key risk and Mitigations .....</b>	<b>35</b>
<b>Financial Sustainability .....</b>	<b>36</b>
Maximize Non-Government Revenue .....	36
<b>PART D: MEASURING PERFORMANCE.....</b>	<b>38</b>
<b>15. Strategic Planning concepts used in this document: .....</b>	<b>38</b>
<b>16. Institutional Performance Information .....</b>	<b>40</b>
<b>17. Strategic Focus I: Organisational Transformation .....</b>	<b>41</b>
Strategic Objective 1.1: Migration from a classification authority to online regulator .....	41
<b>18. Strategic Focus 2: Regulatory Capacity and Enforcement .....</b>	<b>41</b>
Strategic Objective 2.1: Efficient and effective content regulation.....	41

<b>19. Strategic Focus 3: Customer Focus .....</b>	<b>43</b>
<b>20. Strategic Focus 4: Financial Sustainability .....</b>	<b>43</b>
Strategic Objective 4.1: Continuously improve organisational governance and risk management....	43
<b>21. Strategic Focus 5: Stakeholder Management and Collaboration .....</b>	<b>44</b>
Strategic Objective 5.1: Leverage local and international strategic partnerships to achieve the amended mandate of the FPB.....	44
Strategic Objective 5.2: Improved awareness of the FPB mandate.....	44
<b>22 . Resource Considerations .....</b>	<b>45</b>

## 1. Acronyms and Abbreviations

CCI's	Content Classification Index
CSAM	Child Sexual Abuse Material
DCDT	Department of Communications and Digital Technologies
EA	Executive Authority
FPB	Film and Publication Board
FPGs	Films, Publications and Games
GCIS	Government Communications and Information System
HC	Human Capital
ICASA	The Independent Communications Authority of South Africa
INHOPE	International Association of Internet Hotlines
ICT	Information Communications Technology
KPI	Key Performance Indicator
MDDA	Media Development and Diversity Agency
M&E	Monitoring and Evaluation
MoU	Memorandum of Understanding
MTEF	Medium Term Economic Framework
MTSF	Medium Term Strategic Framework
NDP	National Development Plan 2030
OD	Organizational Design
PFMA	Public Finance Management Act
PMO	Project Management Office
SABC	South African Broadcasting Corporation
SADC	Southern African Development Community
SAFACT	South African Federation against Copyright Theft
SAM	Sexual Abuse Material
SAPS	South African Police Service
SARS	South African Revenue Service
SO	Strategic Outcome
SOP	Standard Operating Procedure
UGC	User Generated Content

## 2. Accounting Authority Statement

The Films and Publications Board (FPB) is a public entity established in terms of the Films and Publications Act, (No 65) of 1996, as amended. The FPB's mandate, as outlined in the Films & Publications Amendment Act (Act no.11) of 2019, is to regulate the creation, production and distribution of films, games, and certain publications in the country. This includes all content distributed online and other digital platforms. At the core of the FPB's mandate is the protection of the public, including children, against the illegal distribution of harmful and prohibited content as defined in the Film and Publication Amendment Act of 2019.

### **Shareholder's Strategic Intent**

At her inaugural meeting with the FPB Council held on 2 September 2021, the Minister of Communications & Digital Technology (DCDT), Hon. Khumbuzo Ntshavheni, as a Shareholder, requested us (Council) to:

- develop a strategic plan that implements the Amendment Act,
- redefine our role as the future content regulator within the online regulatory environment as no regulator is currently claiming authority over the space.

The Strategy, reflects our response to that clear strategic intent. The Plan is formulated within the context of the following forces externally driving changes to the strategic focus of the FPB as an organization during the medium term:

### **COVID-19 Pandemic**

The past two (2) years has been characterised by the continual response to the COVID-19 pandemic which unexpectedly disrupted business throughout the world. Equally the FPB was impacted as a business both directly and indirectly from the well-being of our employees and business operations. Unfortunately, similar to other organizations, we lost several staff members – the saddest thing in an organization, while others contracted the disease and had to stay home to recover. Our business continuity systems were tested as we adopted Work-From Home (WFM) policy. Linked to this, the materials submitted for classification significantly declined. As the pandemic continues to evolve, it requires of us to be resilient as organization by supporting our staff on an ongoing basis and ensure business continuity. In whatever shape or wave it takes, we should be ready, to revise and adapt our plans.

## **Digital transformation & Disruptive change**

The forces of technological transformation under the aegis of the Fourth Industrial Revolution (4IR) are continuously transforming the world as we know it, changing the way we work and relate to each other (Schwabb, 2017). This world has not only brought about the convergence of technologies which is continuously blurring traditional market distinctions and boundaries, but also brought with it the rapid proliferation of, and ubiquitous on-line streaming platforms which resulted in connected citizens. This then transformed content consumption patterns, making it available anywhere and anytime.

While these positive trends are lauded, they equally brought with them the risk of exposing the citizens to potentially harmful, prohibited, and unregulated content. It is our mandate as accorded by the Amendment Act to protect the citizen in this regard.

## **Film & Publication Amendment Act, 2019**

The enactment of the Film & Publication Act (no.11 of 2019)2019, has not only addressed the regulatory gaps in the classification environment. It has significantly expanded the FPB's mandate with legitimate powers to issue and grant licences and enforce prescribed regulations, by imposing penalties for non-compliance with the law and the requisite regulations. The newly introduced enforcement committee will strengthen compliance. In our response to this new legislation, our strategy had to inevitably change so that we can be responsive to the needs of the industry and our stakeholders. On its own, this new legislation brings immense opportunities to realign the organization for future growth, and reskill our employees for the digital world and increase revenues to fund our mandate. This is important in view of the precarious financial position of the fiscus owing to other pressing needs, exacerbated by the government's economic response to the Covid-19. This therefore, means chances of receiving additional funding for the implementation of this expanded mandate are slim. It is important that we increase our self-generated revenues to implement this mandate.

## **Wider SOE Reforms and reconfiguration**

In the last few years, government has engaged in a major process of analysing its State-Owned Enterprises (SOEs) portfolio to determine relevance and areas of duplication. This should be understood within the context of the precarious position of the fiscus and the challenges experienced by some of the SOEs, and the increasing duplication of mandates requiring strengthening and reposition within a changing environment. Equally within our portfolio, we have been requested by our shareholder to re-envision ourselves as a future content regulator within the digital environment. This is a challenge that we embrace graciously from our shareholder and together with our staff and other stakeholders, we are

equal to the task as the FPB. The crafting of this vision will preoccupy us in the medium term. What gives us comfort is that we will continue to exist as an organization. Our goal is to redefine ourselves within this complex and rapidly changing environment in a manner that demonstrate value to our stakeholders.

Our brand promise, "**Educate, Protect, and Empower**" remains central to our integrated communication, stakeholder engagement and partnerships strategy. The FPB will continue to grow its global footprint given the fluidity and borderless content within which we operate. The global community plays a critical role in revolutionising how content is regulated and enforced. For this reason, continuous benchmarking of our work against global best practices to share lessons and harmonize our regulatory instruments will remain the FPB's strategic thrust.



---

**Ms Z Mkosi**

**Council Chairperson: Film and Publication Board**

**Date:**

### **3. Accounting Officer Statement**

This Annual Performance Plan details the FPB's overall objectives and plans to deliver on its mandate over the Five years Strategic Plan (2022-2026).

#### **The changing context**

Drawing from the Strategy, the Plan reflects a complete revision from the previous FY's commitment. As explained in the Strategy is inevitably due to the major changes brought by the following which required us to accordingly realign our Strategy as an organization to remain relevant and stay in the regulatory business, namely:

##### *Industry changes*

These changes are headlined by:

- Declining trends in materials submitted for classification since 2017,
- Increased global online harms and abuses requiring a transnational response,
- Fluidity of the online content distribution platforms,
- Overall industry growth and revenue opportunities.

##### *The Implementation of the FP Amendment Act of 2019*

Signed into law in 2019 and proclaimed by the President of the Republic in 2022, the FPB Amendment Act (no. 11) of 2019 has significantly expanded the mandate of the FPB from a traditional classification authority regulating by agreements to a fully-fledged content regulator whose future objective is to protect the citizens and children against harmful and prohibited content and activities online, including increasing unacceptable behaviours such as bullying and hate-speech.

##### *The transformation of the FPB as the future Online Content regulator*

The rapidly changing technological development and the seismic shifts in the industry have not only created a regulatory nightmares, they created regulatory duplication and fragmentation, in areas that they never existed before, while also creating new regulatory scopes which at the moment are not accounted for within the regulatory space, particularly on online platforms. The transformation of the FPB as the future Content regulator is set to locate and transform the FPB within the context of the changing regulatory landscape by clearly outlining what the FPB should regulate and the model of its regulation. These key strategic projects are set to preoccupy us in the medium term.

## **Our business drivers**

The changes ushered by the FP Amendment Act in particular, require us to build a fully-fledged regulator that is resilient, responsive, and enjoys the trust of its publics and wider stakeholders. Concomitant to this objective, our business during the medium term, is set to be driven mainly by the following activities:

- Organizational transformation and stability
- Licensing & Classification
- Monitoring compliance and enforcement
- Developing and updating regulatory instruments and guidelines
- Research and analysis to guide evidence based regulatory making processes
- Public Awareness and education to raise awareness on the provisions of the amendment act

## **Our strategic focus**

In line with the business drive above and further considering the rapidly changing landscape and the new environment ushered by the Films & Publication Amendment Act, the FPB will, during this medium term be driven by 5 strategic focus areas, namely:

- Organizational Transformation
- Regulatory Capacity & Enforcement
- Customer Focus
- Financial sustainability
- Stakeholder management & collaboration

These strategic focus areas will ensure that as we transform the FPB as a fully-fledged regulator that is digitally driven both in terms of skilled-personnel and technological capabilities (systems, online monitoring, and enforcement), as intended by the Amendment Act, we build a strong canon of regulatory frameworks and instruments that are clear, robust, and perfectly suited for a rapidly evolving and complex industry. Our investment both in terms of human and financial resources will be driven by these two areas.

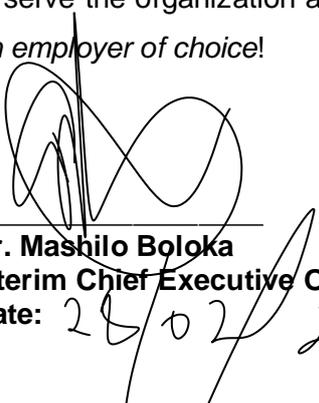
As indicated by our Accounting Authority, the expansion of the mandate and the transformation of the FPB to a fully-fledged regulator comes at an unfortunate economic time given the precarious position of the fiscus owing to other pressing needs within the Republic. We, therefore, cannot overly rely on public funds alone. We will aggressively pursue the self-generated revenues to fund some of our operations and expansion plans.

The online mandate transcends the scope and capacity of a single regulator, both domestically and internationally. We can't do it alone as the FPB. It is for this purpose that in pursuit of this expanded mandate, we will collaborate and enter into strategic partnerships both horizontally and vertically to the industry.

In pursuit of this strategic focus, we are buoyed by the rebound of the industry from the COVID-19 induced stagnation, that saw a significant decline in materials submitted for classification. In addition to the revenue opportunities brought by the Film & Publication amendment Act, this industry recovery, is positive as it promises growth to the FPB as an organization.

### **Our people**

At the heart of every organization driving its performance and resilience is its people. We will as part of this digital transformation invest heavily in our people by adequately reskilling them to serve the organization and provide opportunities to grow within so that the FPB becomes *an employer of choice!*



**Dr. Mashilo Boloka**  
**Interim Chief Executive Officer**  
**Date:** 28/02/22

#### 4. Official Sign-Off

It is hereby certified that this Strategic Plan:

- Was developed by the Council and Executive management of FPB;
- Takes into account all the relevant policies, legislation and other mandates under the custodianship of the FPB ; and
- Accurately reflects the revised Impact, Outcomes and Outputs that the FPB will endeavour to achieve over the period 2022-2026.



**Ms. I Radebe**  
**Strategy Monitoring and Evaluation Specialist**

Date:

28/02/22



**Mr. M Chowan**  
**Chief Financial Officer**

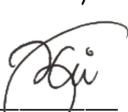
Date:

28/02/22

**Dr. M Boloka**  
**Interim Chief Executive Officer**

Date:

28/02/22



**Ms. Z Mkosi**  
**Chairperson: FPB Council**  
Date:

## PART A: SITUATIONAL ANALYSIS

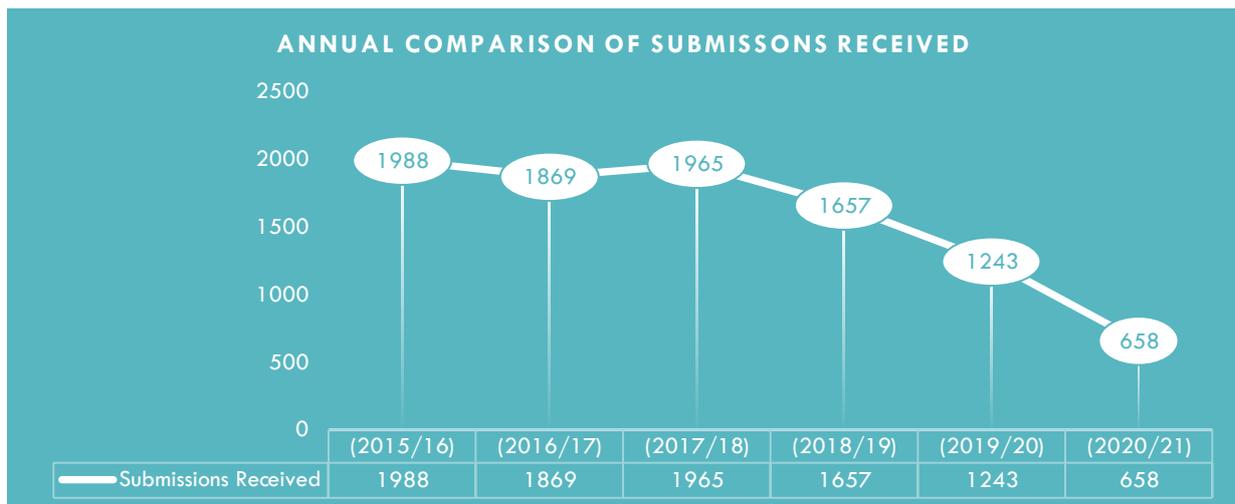
### 5. SITUATIONAL ANALYSIS

The 2021/2022 Financial Year marked a second consecutive year of Covid-19 induced lockdown restrictions across the globe, bringing with it operational challenges. Despite these challenges, the FPB demonstrated organizational resilience owing to its adoption of hybrid model of Work-From-Home (WFH) and office rotation to ensure safety while managing operational disruptions. Online submissions and remote classification exposed the shortcoming of the entity's systems, in terms of compatibility and automation, thereby threatening our ability to offer quality and efficient service to our customers.

The year on year consistent decline in the number of submissions and throughout the quarters of the 2020-2022 financial years remain an existential challenge that is difficult to ignore. The annual submission statistics for the 2020-2021 financial year indicates that there is a significant decline of 48% (56) in total classified content. That said, we are, however, comforted by a marked increase in the number of games and film festivals which seem to suggest that the industry is gradually on a rebound (see Table 1 below). This can be attributed to the easing of lockdown restrictions globally, thus allowing normal trade and content consumption to resume. This will obviously improve our operational environment in terms of materials submitted for classification, registration and renewals.

Financial Year	2015/16	2016/17	2017/18	2018/19	2019/20	2020/21
Total submissions	1 988	1 869	1 965	1 657	1 243	658
Rejections	73	62	77	42	58	40
Classified Content (including Film Festivals)	1 769	1 807	1 888	1 612	1 185	600
Appeal Applications Lodged with FPB	5	2	4	4	0	3

Table 1: Total Submissions over six years 2015/16 FY – 2020/21 FY



The FPB has experienced a high attrition rate in the management structure, with the leadership of the organization currently occupied by acting positions. This obviously has severe impact on decision making and the general stability of the organization. The continued decline of the annual financial grant from National Treasury year on year owing to the pressures on our fiscus, constrains the efficiency and effectiveness of FPB's operations. The demand from the industry, cannot be met with the little resources, this has huge potential to render the organization ineffective.

The Films and Publications Amendment Act, 2019 has made provisions for the appointment of the Enforcement Committee, accreditation of foreign or international classification authorities following the submission of an application by Commercial Online Distributors by the FPB. These new provisions strengthen and expand the regulatory powers of the FPB. FPB has seen an increase in the number of internationally based online distributors, who seek to tap into the South African online content consumption market.

The year ahead should focus on setting the organization on a long-term transformation path in alignment with the expanded mandate brought about by the Amendment Act by addressing three fundamental pillars of any organizational transformation: people, systems and technology.

### **5.1 External Environment**

The PESTELI approach informs our situational analysis, being a mnemonic for **P**olitical, **E**conomic, **S**ocial, **T**echnological, **E**nvironmental, **L**egal and **I**nnovation.

## **Political**

- Change of political leadership - New Accounting Authority as well as Minister and Deputy Minister;
- Role of social Media;
- Fertile ground for the fault lines along race frustrations -Goal 14 of the NDP;
- Regulated government through Legislation to protect consumers.

## **Economy**

- Addressing Youth Unemployment;
- Job losses in the industry created by the shrinking physical distribution market with closing of cinemas globally; there is however a growth in the online distribution market;
- Physical distribution stores closing – online stores opening (increased number of online regulation licenses signed in the last 3 years);
- Over the top (OTT) streaming on the increase;
- SA retains high revenue generating potential in the Media and Entertainment digital markets (surpassing the Middle East, the rest of the African continent and some European markets);

## **Social / Society**

- South Africa is a Society-in-the-making; divergent social norms and values (Inxeba; Yabantu TV);
- To some extent, social media promotes a culture of violence and some content is not suitable for child consumption;
- SA is amongst the countries with highest recorded incidents of cyber-bullying;
- Social media is among the key drivers of teen suicide. Teen suicide: 9.5% of all non natural deaths among teenagers due to suicide;

## **Technology**

- Organizations like AWS and Microsoft have invested in building data centers in SA. This is a boost to SA inadequate ICT infrastructure,;
- Technology is advancing faster, however, there are still some challenges of internet connectivity to some areas (especially rural area);
- Projected increase in internet access and digital media in line with projected decrease in the data cost and improvements in ICT infrastructure – increasing potential for growth in this space;

- The impact of internet has increase publishing of digital media which need to be regulated

### **Environmental**

- SA has developed environmental policies;
- The green environment policy has led to the fast growth of digital media;
- Connected communities to leverage skills, knowledge and technologies;
- Proposed regulator of the future;
- Proposed communications campus to house the various entities under the Communications Department;

### **Innovation**

- The Content Classification Index (CCI) its a innovative ranking system of regulators;
- Future-proofing the FPB through ICT-led innovations (OCR);
- Leverage limited resources by partnering with regional and continental regulators;
- Challenge threats to regional and national sovereignty vis-à-vis external pressure from online distributors;
- Cross-country treaties to strengthen an effective regulatory role; and
- Upskilling of FPB employees; classifiers to building an innovative staff cadre.

Over and above the PESTELI overview, this situational analysis looks at the broader organizational functionality and how it is pivoted to the achievement of the organizational strategy. It looks at the legal, human resources and operational arms of the organization, rounding off with a summary of a gap analysis.

### **Legal**

- Liberal constitutional framework (balancing of rights – freedom of expression vs right to privacy);
- Resistance to Regulation from some players in the Digital/Online Space (*Source: PWC Media Outlook*).
- Strengthened legal instrument Film and Publication Act (FP Act) to enable better enforcement and administrative action, and better governance;
- Films & Publication Amendment Act has strengthened the FPBs ability to regulate and in so doing collect more revenue.
- New POPIA Act came into effect and will place greater burdens on FPB's our outreach team as well as all social media platforms that will be required to be monitored.

## Human Capital

- High rate of attrition, vacancy rate 18%;
- Low Staff morale as a result of burn-out (increased productive hours given work from home status) as well as non-implementation of 2 consecutive years of cost of living increases;
- Excellent skills development programme for employees;
- Rapid and constant change in leadership at executive level that result in uncertainty for some employees;
- Alignment of organizational structure to adequately respond to the implementation of the Amendment Act

## Operations

- Requirement to elevate the expanded mandate of the FPB beyond classification;
- Accommodate the Enforcement committee in the FPB structure;
- Review of the operations functional structure, processes and procedures to align to the Amendment Act,
- Internal foresight to develop online registration and compliance monitoring tools;
- Many manual processes and procedures / processes not fully automated;
- Established Project Management Office (PMO) to strengthen coordination;
- Declining budget allocation to government entities over the past years makes sourcing alternative revenue streams essential.

## 5.2 Internal Environment

During the strategy review, FPB assessed its organizational performance against both the strategic plan targets as well as the work programme targets. Over the past four years, the organization achieved an unqualified audit opinion with findings. The findings were largely around the reliability and smartness of the performance information. In the 2019/20 financial year, the entity attained an **unqualified audit with no findings**. This has however regressed in 2020/2021 to an **Unqualified audit with findings**.

The FPB conducted an internal qualitative on-line SWOT analysis to determine 'what we do well' (**Strengths**), 'what we don't do well' (**Weaknesses**), 'Opportunities going into the future' ('opportunities'), 'Threats/Risks that face us' (**Threats**). Over and above, respondents were asked to comment on "what keeps them awake at night" (what worries them most) and what they would do if appointed as CEO of FPB. Responses to this 'survey' revealed the following

for FPB to address in its five years Strategy and it's 2022/2023 year's Annual Performance Plan.

# SWOT ANALYSIS

## • Strengths

Expanded regulatory mandate with enforcement powers  
Committed and dedicated staff  
Solid organisational governance structure

## • Opportunities

Organizational growth  
Growing industry  
Increased revenues

High staff turnover  
Organizational instability (High Executive turnover)  
Misalignment of organizational structure to the expanded mandate  
Inadequate financial resources  
Inadequate skilled personnel to the new mandate  
Inadequate regulatory instruments  
Inadequate technological capabilities



Disparate jurisdictional regulatory frameworks  
Transnational nature of the Online environment  
Fluid environment  
Financial powers of role-players

## • Weaknesses

## • Threats

## PART B: MANDATE

### 6. Constitutional Mandate

The freedom of expression has been provided for in the Constitution of the Republic of South Africa, 1996 (Constitution) where section 16 states that:

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 subsection (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.

The Constitutional Court in *Qwelane v South African Human Rights Commission and Another* (CCT 13/20) [2021] ZACC 22 (31 July 2021) at par 68 – 69 held that:

[68] Freedom of expression “is of the utmost importance in the kind of open and democratic society the Constitution has set as our aspirational norm”. This is because it “is an indispensable facilitator of a vigorous and necessary exchange of ideas and accountability.

[69] According to Emerson, there are four particular values that undergird the right to freedom of expression. These, as I understand them, include: (a) the pursuit of truth; (b) its value in facilitating the proper functioning of democracy; (c) the promotion of individual autonomy and self-fulfillment; and (d) the encouragement of tolerance.

The Constitutional Court in *Qwelane* importantly went on to state however at par 73 – 74 that:

“[t]he corollary of the freedom of expression and its related rights is tolerance by society of different views. Tolerance, of course, does not require approbation of a particular view. In essence, it requires the acceptance of the public airing of disagreements and the refusal to silence unpopular views.” In *Islamic Unity*, Langa DCJ elucidated:

*Freedom of expression is applicable, not only to information or ideas that are favourably received or regarded as inoffensive or as a matter of indifference, but also to those that offend, shock or disturb the state or any sector of the population.*

*Such are the demands of that pluralism, tolerance and broadmindedness without which there is no democratic society.*

[74] These dictates of pluralism, tolerance and open-mindedness require that our democracy fosters an environment that allows a free and open exchange of ideas, free from censorship no matter how offensive, shocking or disturbing these ideas may be. However, as stated by this Court in *Mamabolo*, this does not mean that freedom of expression enjoys superior status in our law. Similarly, a unanimous Court in *Khumalo v Holomisa* stated that, although freedom of expression is fundamental to our democratic society, it is not a paramount value. That being said, as this Court observed in *Laugh it Off*, “we are obliged to delineate the bounds of the constitutional guarantee of free expression generously”.

Acknowledging the fact that South Africa is a relatively young democracy which has emerged from decades of repression, censorship and prescribed conformity, it is imperative that the freedom of expression and the rights of the media must be protected.

Section 36 of the Constitution however provides that:

“The rights in the Bill of Rights may be limited only in terms of law of general application to the extent that the limitation is reasonable and justifiable in an open and democratic society based on human dignity, equality and freedom, taking into account all relevant factors, including –

- (a) the nature of the right;
- (b) the importance and the purpose of the limitation;
- (c) the nature and extent of the limitation;
- (d) the relationship between the limitation and its purposes;
- (e) less restrictive means to achieve the purpose.”

It is to maintain the required proportionality and balance between respecting the freedom of expression and protecting the rights of persons, in particular those of children, that the FP Act has been promulgated. The Films and Publications Act, 1996 (Act No. 65 of 1996) (FP Act), repealed the Indecent or Obscene Photographic Matter Act, 1967 (Act No. 37 of 1967), and the Publications Act, 1974 (Act No. 42 of 1974), and created a new comprehensive regulatory framework for films, games and certain publications. The FP Act provides for the establishment of the FPB that is responsible for the classification of both films, games and certain publications and no film or game may be distributed or exhibited in public unless it has been classified by the FPB.

The FP Act is a “law of general application” as required by section 36 (1) of the Constitution. The Constitutional Court has held that such a requirement derives from an important principle of the rule of law, namely that “rules be stated in a clear and accessible manner”.<sup>1</sup>

To this end the Legislature may and has, consistently with the Constitution, promulgated the FP Act to regulate the creation, production, possession and distribution of films, games, certain publications and the internet by way of classification to:

- a) protect consumers against harmful and disturbing material while allowing adults to make informed choices for themselves and the children in their care by providing consumer advice;
- b) protect children from exposure to disturbing and harmful material and from premature exposure to adult material; and
- c) make the use of children in pornography and exposure to pornography punishable.<sup>2</sup>

In doing so the provisions of the FP Act are justifiable noting that the nature of the right and the extent of the limitation, on the one hand, and the purpose of the limitation on the other need to be considered.<sup>3</sup>

Acknowledging that the freedom of expression is an important right in our Bill of Rights, there is nonetheless a legitimate government purpose to empower the FPB to execute its legislative mandate. The main purpose of the FP Act, through the regulatory tool used by the FPB, is to classify content to provide age-ratings and consumer advisories to ensure that consumers make appropriate viewing and gaming choices for themselves and children in their care.

The FPB classification regime is premised on the formulation of classification guidelines<sup>4</sup> which is informed by empirical evidence on what can be deemed harmful for adults and children. The formulation of the classification guidelines entails extensive public consultations, ensuring the standards placed within the classification guidelines are in-line with public expectations. This means the classification guidelines formulation process is evidence based, transparent and has accountability mechanisms, with all these essential in regulatory policy formulation of a democratic state. Such a process is undertaken however within the framework of the Bill of Rights so as to ensure compliance with section 8 (1) and (3) of the Constitution which provides with regards to the former that the Bill of Rights applies to all law, and binds

---

<sup>1</sup> *Dawood and Another v Minister of Home Affairs and Others, Shalabi and Another v Minister of Home Affairs and Others; Thomas and Another v Minister of Home Affairs and Others* 2000 (3) SA 936 (CC); 2000 (8) BCLR 837 (CC) para 47.

<sup>2</sup> Section 2 of the Films and Publications Act, 65 of 1996.

<sup>3</sup> *S v Manamela and Another (Director-General of Justice Intervening)* 2000 (3) SA 1 (CC); 2000 (5) BCLR 491 (CC) paras 65-66.

<sup>4</sup> Section 4A (1)(a) of the Films and Publications Act, 65 of 1996.

the legislature, the executive, the judiciary and all organs of state and with regards to the latter that in giving effect to the Bill of Rights one must apply or if necessary develop the common law to the extent that legislation does not give effect to any right and develop rules of the common law to limit any right provided that the limitation is in accordance with section 36 (1) of the Constitution.

## 7. Other Supportive Legislation

The FPB legislative mandate is supported by various pieces of legislation, listed below:

Short Title	Purpose
Constitution of the Republic of South Africa, 1996 (Act 108 of 1996)	This Constitution is the supreme law of the Republic, law or conduct inconsistent with it is invalid, and the obligations imposed by it must be fulfilled. Any law therefore that violates the Constitution, or any conduct that conflicts with it, can be challenged and struck down by the courts.
Cybercrimes and Cybersecurity Act, 2020 (Act No. 19 of 2020)	The aim of the CC Act is to deal with cybercrimes and cybersecurity which is broadly defined as the use of data, a computer programme, a computer data storage medium or a computer system in committing crimes. Cybersecurity is defined as the protection of data, computer programmes, computer data storage mediums or computer systems against cybercrime, damage or interference through the use of technologies, measures and practices. The CC Act also aims to rationalise the laws of South Africa which deal with cybercrime and cybersecurity into a single Act and with specific regard to the work of the FPB, criminalises the distribution of malicious communications and provides for interim protection measures.
Child Justice Act, 2008 (Act No. 75 of 2008)	The Child Justice Act aims to keep children out of detention and away from the formal criminal justice system, mainly through diversion. When these interventions would be inadequate or unsuccessful, the Act provides for child offenders to be tried and sentenced in child justice courts.

Short Title	Purpose
Children's Act, 2007 (Act No. 41 of 2007)	The Children's Act governs the laws and regulatory frameworks relating to the care, contact and the protection of children. It defines responsibilities and rights, makes provision for the establishment of Children's Courts and the appointment of welfare officers. In all cases, the guiding principle is the best interests of the child.
Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act No. 32 of 2007)	The Criminal Law (Sexual Offences) Amendment Act provides for prohibitions, offences and punishment of sexual crimes committed duly listed. The Act replaces certain common law provisions on sexual offences and sections of the old law, the Sexual Offences Act, 1957 (Act No. 23 of 1957).
Electronic Communications Act, 2005 (Act No. 36 of 2005)	The ECA regulates electronic media and broadcasting in particular in the milieu of media convergence.
Employment Equity Act, 1998 (Act No. 55 of 1998)	The EEA applies to all employers and workers, and protects workers and job seekers from unfair discrimination and provides a framework for implementing affirmative action.
King IV Report on Corporate Governance for South Africa 2016	Ethical and effective leadership is at the heart of King IV™. The 17 basic principles are universally applicable to all organizations, and all are required to substantiate a claim that good governance is being practised.
Labour Relations Act, 1995 (Act No. 66 of 1995)	To protect everyone in the workplace and to promote economic development, fair labour practice, peace, democracy and social development.
National Treasury Regulations	These regulations are issued regularly by National Treasury and are applicable to all public entities in accordance with their Schedule listing.
Occupational Health and Safety Act, 1993 (Act No. 181 of 1993)	The Occupational Health and Safety Act aims to provide for the health and safety of persons at work and for the health and safety of persons in connection with the activities of persons at work and to establish an advisory council for occupational health and safety.
Prevention and Combating of Trafficking in Persons Act, 2013 (Act No. 7 of 2013)	pronounces on the recruitment and exploitation of children in sex trafficking and in the production of pornography.

Short Title	Purpose
Promotion of Access to Information Act, 2000 (Act No. 2 of 2000)	To give effect to the constitutional right of access to any information held by the State and any information that is held by another person and that is required for the exercise or protection of any rights; and to provide for matters connected therewith.
Promotion of Administrative Justice Act, 2000 (Act No. 2 of 2000)	To give effect to the right to administrative action that is lawful, reasonable and procedurally fair and to the right to written reasons for administrative action as contemplated in section 33 of the Constitution of the Republic of South Africa, 1996; and to provide for matters incidental thereto.
Protection of Personal Information Act, 2013 (Act No. 4 of 2013)	Protection of personal information and data.
Public Finance Management Act, 1999 (Act No. 29 of 1999)	To regulate financial management and to ensure that all revenue, expenditure, assets and liabilities of Government departments or entities are managed efficiently and effectively.
Skills Development Act, 1998 (Act No. 97 of 1998)	To govern training, education and skills development in the workplace.

Table 1: Other supporting legislative guideline

## 8. Legislative and Policy Mandates

### 8.1 Legislative Mandates

The mandate of the FPB is to protect consumers against harmful and prohibited content as defined in the Act by regulating the creation, production, possession and distribution of films, games, certain publications and the internet.

### 8.2 Functions, Powers and Duties of the FPB Council:

In accordance with section 4A (1) of the FP Act, the Council of the FPB shall:

- a) In consultation with the Minister, issue directives of general application, including classification guidelines, in accordance with matters of national policy consistent with the purpose of the FP Act;
- b) Determine and issue a Code of Conduct for members of Council;
- c) In consultation with the Minister, appoint a chief executive officer;

- d) In consultation with the Minister, determine the qualifications, experience as well as terms and conditions of the employment of Classifiers;
- e) Appoint such number of Classifiers that comply with the determinations as may be required, having regard to the likely volume of applications and submissions that will be made in terms of the FP Act;
- f) At least four times a year, review and report to the Minister on the functioning of the FPB to ensure that the objects of the Act are implemented efficiently and that the FPB discharges its obligations and responsibilities in accordance with the Act or any other law; and
- g) Exercise and perform such other functions, powers and duties as are conferred or imposed on the Council by or under the Act or any other law.

Role	Description (and related provisions)
Regulatory role	To regulate the creation, production, possession and distribution of films, games certain publications. The FP Amendment Act brings greater accountability and the enforcement committee as a legal instrument to strengthen our ability to enforce compliance (section 3(1) (d) and (2).
Issue and renew classification and accredit distribution licences	To issue and renew licence classification licences and accredit distribution licences.
Classification and compliance monitoring.	To impose age restrictions and give consumer advice on the content of films, games and certain publications, with due regard to the protection of children against sexual exploitation or degradation (section 18 and 21).
Prohibited content and illegal conduct online	To penalize the distribution of content that promote prohibited content and illegal conduct online.
Child Protection	To make punishable the exploitative use of children in pornographic (sexual abuse material – (SAM)) content of films, games, certain publications and online (Mandate).

*Table 2: The FPB's Legislative Powers and Functions*

### **8.3 Policy Mandate**

The following delegations of authority are implemented within the FPB and were reviewed accordingly by the FPB Council in its fourth term:

- Procurement delegations;
- Financial delegations;
- Legal and contracting delegations;
- Human Resource management delegations and
- Classification Guidelines.

### **8.4 Institutional Policies and Strategies over the five-year planning period**

- Risk Management and Internal Audit policies;
- Corporate Governance Framework;
- Human Resource Management policies;
- Financial Management and SCM policies;
- Communications Policies;
- Research, Knowledge Management and document management policies;
- ICT policies;
- Legal and compliance policies;
- Classification Strategy, guidelines framework; and
- Child Protection Strategy.

## **9. Legislative Revisions**

Since its inception approximately 25 years ago, the FPB has had the responsibility of classifying films, games and certain publications in line with South African values and norms under the overarching application of the Bill of Rights. This approach has a distinct difference from the censorship regime used by the Apartheid government to advance the then state's discriminatory and dehumanising political agenda.

The role of the FPB has previously been regulating the distribution of content, which was easily identifiable. Films were either distributed via VHS, disc (DVD and Blu-ray) and in cinema format, and games were likewise distributed in disc format whereas publications were in pre-packaged magazines and books. With developments in technology, content has moved to online streaming or digital platforms. Consumers, and particularly children, now can access content which may not have been appropriately classified and labelled through such online streaming and digital platforms.

## 9.1 Impact Of The FP Amendment Act

### Organizational impact

As indicated previously, the Amendment has expanded the entity's mandate beyond merely the classification of content into a fully-fledge regulator. This mandate is currently being pursued through four operational activities supported mainly by the Operations, Research, Client Support (receiving, managing and addressing queries) and Legal and Regulatory Affairs Business Units, namely:

- a) Classification of content such as films, games and certain publications;
- b) Licensing and renewals of distributors, including Commercial Online Distributors;
- c) Dealing with complaints lodged by the public relating to distribution of:
  - i) private sexual photographs and films;
  - ii) the filming and distribution of films and photographs depicting sexual violence and violence against children; and
  - iii) the distribution of content containing propaganda for war; incitement of imminent violence and advocacy of hatred that is based on identifiable group characteristics, and that constitutes incitement to cause harm has taken place; and
- d) Monitoring compliance and ensuring enforcement where non-compliance is identified (both in terms of the physical and online distribution of content).

### Regulatory Impact

The introduction of amendments to the FP Act has been necessitated by the need to address the following regulatory challenges:

- a) Align the definition of child pornography to the definition in terms of the Constitutional Court judgment in the case of *De Reuck v Director of Public Prosecutions (Witwatersrand Local Division) and Others* 2004 (1) SA 406 (CC);
- b) Give effect to the constitutional amendments of section 16 (2)(a) as instructed by the Constitutional Court in *Print Media South Africa and Another v Minister of Home Affairs and Another* 2012 (6) SA 443 (CC);
- c) Decriminalize the online distribution of adult content on all platforms including digital platforms;

- d) Provide for the establishment of a co-regulation system that will allow for accreditation by the FPB of independent classification bodies to classify their own digital films, games and publications; and
- e) Provide for an effective penalty regime in support of, amongst others, the co-regulation approach.

The purpose of the amendments in the FPA Act therefore is to close the regulatory gap that currently exists in the online market. Consumers, and children in particular, run a risk of exposure to harmful and prohibited content which is distributed on online streaming and digital platforms. It is important to note that what is deemed to be harmful content may differ from one jurisdiction to the next. Harmful content is a value laden concept and it is important for it to reflect the societal values and norms of that country. The amendments therefore extend the current rating system and content regulatory regime to digital and online content providing services. This enhances the protection of children and limit consumer concerns and confusion.

#### **10. Relevant Court Rulings**

The below is a list of the most recent and relevant court cases applicable to the work of the FPB. In the De Reuck matter, Mr De Reuck was charged with possessing and importing child pornography. The FPB child protection monitors played a crucial role as an expert witness in bringing this criminal to justice. The list is not exhaustive.

1. *Indigenous Film Distribution (Pty) Ltd and Another v Film and Publication Appeal Tribunal and Others* [2018] 3 All SA 783 (GP)

The decision of the Appeal Tribunal to reclassify the film “Inxeba” as “X18” because it depicted secretive initiation rituals and a same-sex relationship in the context of these rituals was set aside by the High Court. The film was originally classified as suitable for persons over the age of 16. The basis for this decision was because the distributor and producer of the film were not afforded a proper opportunity to participate in the proceedings before the Appeal Tribunal and as such its decision to reclassify the film as X18 was removed and set aside.

2. *De Reuck v Director of Public Prosecutions (Witwatersrand Local Division) and Others* 2004 (1) SA 406 (CC).

The application before the Constitutional Court was for leave to appeal a decision of the High Court in which the Applicant was found guilty of importing and possessing Child Sexual Abuse Material (CSAM) in terms of section 27 (1) of the FP Act. The Constitutional Court held that the section constitutes a law of general application and the limitation of the rights claimed (freedom of expression and privacy) is reasonable and justifiable in that a person is allowed to possess child pornography should the FPB grant an exemption on

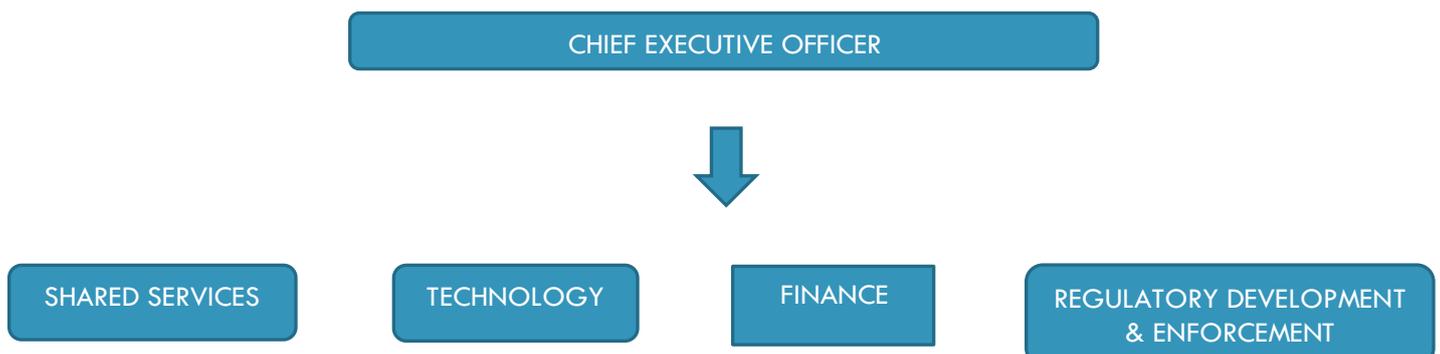
the basis of a good cause in that respect. It was further held that CSAM does not consist of all depictions of a nude child, but rather those that stimulate erotic feeling, not aesthetic feeling, the test being an objective one. The limitation serves a legitimate purpose, viz. protecting the dignity of children, stamping out the market for photographs made by abusing children and preventing a reasonable risk that the images will be used to harm children. The appeal was dismissed.

3. *Print Media South Africa and Another v Minister of Home Affairs and Another* 2012 (6) SA 443 (CC).

The Constitutional Court, confirming the High Court’s ruling, held that legislative provisions in the FP Act which required publishers to submit publications containing certain categories of “sexual conduct” for examination before publication were unconstitutional. The Constitutional Court reasoned that the administrative prior classification provided for under the FP Act amounted to a form of prior restraint which is a drastic interference with freedom of speech that should only occur where there is a substantial risk of grave injustice which was not the case here where less restrictive means could be unemployed. Accordingly, the FP Act’s prior classification system was an unjustifiable limit to the right to freedom of expression.

## 11. Accountability Structures

The FPB has accountability structures that direct, manage and hold the institution accountable. These are based on the FP Amendment Act, the PFMA and the National Treasury Reporting Framework. In addition, the FPB subscribes to the requirements of the King IV Report on Corporate Governance for South Africa. Parliament, through the Parliamentary Portfolio Committee (PPC) on Communications and Digital Technologies of the National Assembly, maintains high-level oversight of the entity, while the Executive Authority (the Minister of Communications and Digital Technologies) and the Accounting Authority (the FPB Council) are accountable for the entity. Chapter 2 section 9(4a) of the FP Act confers the powers to the Accounting Officer (Chief Executive Officer) to manage the business operations of the entity with the assistance of the Executives:



## 12. Description of and approach to the strategic planning process

Against the backdrop of diminishing state subsidies and the value-add of State-Owned Entities (SOEs) to society and the economy under the spotlight, SOE's are under increasing pressure to 'get it right' or cease to exist. Those who resist change, will embrace irrelevance even less. In most instances, public entities will be expected to develop a commercial mind-set to generate supplementary income from their expertise, assets and functions to make up this shortfall.

To achieve this it will require a transformational mind-set change for a public entity's leadership as it heads into a new era of commercially aware public service in the 2020's. FPB is fully aware of and is gearing up to meet the challenge of a commercially minded (part income generating) entity of the 2020s.

This Strategic Plan was guided by the "Revised Framework for Strategic Plans and Annual Performance Plans" issued by the Department of Planning, Monitoring and Evaluation. This revised approach focuses on Results Based Planning and linking of FPB's Outcomes to the National Development Plan (NDP) five-year implementation plan.

The FPB Council and Management held a three-day Strategic Planning workshop in August 2021 and an additional two day Strategic Planning Session with Management, followed by operational sessions with each business unit where the Strategic Plan and Annual Performance Plan was logically cascaded down to operational level, Outcomes, Impact, Performance Measures, Risks and Mitigation of Risks. The planning process took into consideration the impacts of the FP Amendment Act on its business operations as well as its implications.

The FPB reviewed its strategic, operational, risk, financial and human resource performance against targets in the strategic plan for the past four years as follows:

- Conducted an alignment gap analysis of the Strategy and APP Strategic Goals and Targets against the FP Amendment Act
- Took into consideration the new Ministers and Council's regression analysis
- Overall organizational performance against targets in the work programme for the past four years;
- Present performance against strategic and work programme; identified lessons learnt, areas of under-performance as well as areas of excellence which can be taken forward to influence future strategies; and
- Effectiveness of the organizational value chain (current process/system) to identify the areas that require improvement, innovation or change.

The information gathered during the strategy review assisted the FPB to converge challenges in the internal and external environment, to analyse and interpret the strategic shift required to minimise the over reliance on the state coffers given the current challenging economic fiscal position.

A SWOT analysis highlighted the strengths and weaknesses in the internal environment and the opportunities and threats in the external environment impacting the organization. This analysis enabled the FPB to identify strategic drivers for change, barriers to change and the factors which support change.

## PART C: STRATEGIC FOCUS

### 13. Organizational Identity

#### 13.1 Mission

To regulate media content and protect the public from harmful and prohibited content.

#### 13.2 Vision

A credible and leading African content regulator, trusted by the industry and the public.

#### 13.3 Brand Promise

**Educate. Protect. Empower**

#### 13.4 Impact Statement

An effective regulator of content that empowers and protects the public.

#### 13.5 Values

Values	Description
Accountability	Promoting responsibility, transparency and credibility.
Integrity	Executing our mission with consistency, honesty, and fairness
Excellence	Upholding professionalism, consistency, ethics and good governance in our operations and conduct with stakeholders.
Innovation	Provide market leading research and innovation to effectively shape the rating and regulation of media content.
Consultation	We subscribe to the principle of people first, value and respect the diversity of views, and multiculturalism in our country.

## **13.6 FPB Key Priorities**

### **Strategic projects**

During the medium term, FPB will drive the follow strategic projects which are set to transform it into the future regulatory landscape:

- Implementation of the FPB Amendment Act 11 of 2019 which has significantly expanded the mandate of the FPB from a traditional classification authority to an Online content regulator whose future objective is to protect the citizens and children against online harmful and prohibited content.
- Transformation of the FPB as the future Online Content regulator in view of the rapidly changing technological development. The transformation of the FPB as the future Online Content regulator is set to locate and transform the FPB within the context of the changing regulatory landscape by clearly outlining what the FPB should regulate and the model of its regulation.

### **C: OUR STRATEGIC FOCUS AREAS:**

#### **Organizational Transformation**

The FP Amendment Act has not only expanded the mandate of the FPB, but it has also further transformed it from a historically classification authority into a regulator by concretizing its legitimacy to function as a regulator beyond classification with powers to issue, renew and revoke licences, impose fines and search and inspect premises and take-down illegal online activities prohibited by the FP Act. This transformation is set to cover three (3) areas:

- alignment of organizational structure to support its strategy,
- reskilling the employees to improve the organization's capacity to drive its mandate,
- Investment in technology to improve systems, processes, and capability to ensure that the organization is digitally driven to improve efficiencies, business processes and capabilities to monitor and enforce compliance.

#### **Regulatory Capacity & Enforcement**

The capacity of any regulator lies into things: the legitimacy performs its functions as accorded by the legislation and the robustness and clarity of the instruments it uses to regulate the sector, including enforcement. As a classification authority, the FPB was largely regulator the industry through agreements and collaboration. The provision of the Amendment Act requires the organization regulate the industry and issue penalties in case of non-compliance. This therefore requires adequate, clear, and robust regulatory frameworks and procedures and instruments for efficient management of its regulatory environment. A key priority amongst

the entity's medium term will be the development and updating of its regulatory instruments. The priority therefore will be driven by the market intelligence and trends analysis research which will be a major support function towards this priority area.

### **Customer Focus**

The efficiency of any regulator is measured by how it responds to customer issues, includes queries management and complaints in respect of distribution of harmful and prohibited content. The minimum turnaround times standard will ensure that we remain committed to serving our customers as intended by the provisions of the Amendment Act. The regular customer survey will provide the necessary feedback to improve our services.

### **Financial sustainability**

Funding from the fiscus may not be sufficient to meet the requirements of the entity to achieve its stated strategy and objective. To this end the entity will look to increase the Self Generated Revenue Percentage of Total Revenue. The levers available to the entity include:

- Classification Fees
- Registration Fees
- Annual renewal fees
- Internet SP Registration
- On line Distributor Licence fees
- Penalties
- Finance Income

The target is to grow Self Generated Revenue from 6% of total revenue as per the audited financial statements of Financial Year 2020/21 to 21% of total revenue in Financial Year 2025/26.

### **Stakeholder management & collaboration**

Technology has not only blurred the geographical market boundaries that characterized the work of regulators around the world. By blurring these market boundaries, it has created regulatory duplication and fragmentation in areas that these never existed before. Again, the online environment is very transnational. These changes suggest that no regulator can deliver on this mandate. Therefore, it requires collaborations and partnership both horizontally and vertically within the sector.

## 14. Key risk and Mitigations

Strategic Focus	Outcome	Key Risk	Risk Mitigation
<b>Organizational Transformation</b>	Digitally Driven Organization	<ul style="list-style-type: none"> <li>Inadequate skills and resources to develop and implement the Digital Transformation Strategy.</li> <li>Resistance to change brought about Digital transformation strategy.</li> </ul>	<ul style="list-style-type: none"> <li>Request additional resources and appoint required skills for digital transformation.</li> <li>Staff workshop and Implementation of the change management program.</li> </ul>
	Efficient, effective and appropriately resourced regulator	<ul style="list-style-type: none"> <li>Lack of capacity and skills to drive a Human Capital (HC) business improvement strategy.</li> </ul>	<ul style="list-style-type: none"> <li>Request additional resources and appoint required skills to drive the HC strategy</li> </ul>
<b>Regulatory Capacity and Enforcement</b>	Improved content classification and Licensing	<ul style="list-style-type: none"> <li>Inability to complete classification and licensing within the turnaround time due to lack of effective and efficient ICT systems.</li> <li>Non-adherence to governance framework and standard operating procedures (SOP)</li> <li>Lack of human resources and financial resources</li> </ul>	<ul style="list-style-type: none"> <li>Implementation of online content regulation system (OCR system) for remote viewing of content and game classification.</li> <li>Training of Classification staff, classifiers as quality assurers.</li> <li>Increase capacity with the RPA unit</li> <li>Increase financial resources</li> <li>Partnerships with global research institutions</li> </ul>
	Improved online content regulation	<ul style="list-style-type: none"> <li>Lack of capacity to conclude online commercial agreements and develop regulatory instruments.</li> </ul>	<ul style="list-style-type: none"> <li>Request additional human resources for concluding online commercial agreements and develop regulatory instruments.</li> </ul>
	Regulatory frameworks for the Implementation of FP Amendment Act developed and/or updated	<ul style="list-style-type: none"> <li>Delays is the development and approval of the framework.</li> </ul>	<ul style="list-style-type: none"> <li>Develop, implement and monitor project plan for the process.</li> </ul>

Strategic Focus	Outcome	Key Risk	Risk Mitigation
	Implementation of FP Amendment Act developed and/or updated	<ul style="list-style-type: none"> <li>• Non-alignment of FPB institutional structure and lack of capacity to implement FP Amendment Act.</li> </ul>	<ul style="list-style-type: none"> <li>• Develop an aligned institutional structure in line with the FP Amendment act mandate and capacitate with relevant resources and skills.</li> </ul>
	Effective and efficient compliance and Enforcement	<ul style="list-style-type: none"> <li>• Inadequate capacity to conclude Enforcement matters within stipulated timeframe.</li> </ul>	<ul style="list-style-type: none"> <li>• Appoint appropriate capacity for the enforcement committee (Committee, admin and support)</li> <li>• Develop regulations for the enforcement committee</li> <li>• Additional human resources and upskilling the compliance and child protection teams</li> </ul>
<b>Customer Focus</b>	Efficient service delivery	<ul style="list-style-type: none"> <li>• Inability to respond to queries / complaints within turnaround times due to lack of effective and efficient ICT systems.</li> <li>• Lack of capacity, skills and knowledge to respond to queries / complaints within turnaround times.</li> <li>• Lack of online platform in place for consumers to report complains.</li> </ul>	<ul style="list-style-type: none"> <li>• Daily testing of ICT systems</li> <li>• Investigate enhancements of ICT systems</li> <li>• Request additional capacity</li> <li>• Training / upskilling of relevant staff</li> <li>• Development of online reporting channels for consumers</li> </ul>
<b>Financial Sustainability</b>	Maximize Non-Government Revenue	<ul style="list-style-type: none"> <li>• Distributors exiting the market due to economic conditions.</li> <li>• Non-payment of regulated fees by Distributors.</li> </ul>	<ul style="list-style-type: none"> <li>• Fees charged should be flexible and take note of economic conditions.</li> <li>• Compliance monitoring SOPS and Finance SOPS to be comprehensive to bring all players into the net and ensure they are billed at the correct rate and in the correct period.</li> </ul>
<b>Stakeholder Management and Collaboration</b>	Increased local and international partnership MOUs signed	<ul style="list-style-type: none"> <li>• The complex nature of the online environment which requires:</li> </ul>	<ul style="list-style-type: none"> <li>• High level strategic engagement with targeted stakeholders resulting in a formalised</li> </ul>

Strategic Focus	Outcome	Key Risk	Risk Mitigation
		<ol style="list-style-type: none"> <li>1. Partnerships</li> <li>2. Harmonized regulatory frameworks</li> <li>3. Sharing of skills</li> </ol>	<p>partnership agreement and implementation plans that align with the expanded FPB mandate.</p> <ul style="list-style-type: none"> <li>• Implement the annual stakeholder engagement plan that targets key partners.</li> </ul>
	<p>The public and industry are educated on the FPB's expanded mandate</p>	<ul style="list-style-type: none"> <li>• Inadequate resources to implement the education plan for the FPB's expanded mandate</li> </ul>	<ul style="list-style-type: none"> <li>• Request additional resources as part of the organizational transformation</li> </ul>

## PART D: MEASURING PERFORMANCE

### 15. Strategic Planning concepts used in this document:

#### Impact (Statement):

An **Impact** is a change in condition(s). This is as a result of achieving one or more specific **Outcome(s)** such as reducing poverty and creating jobs. Impacts seeks to answer the question of "*what do we aim to change*".

*Question to ask: What is the overall condition which we wish to change – as called for by our Mandate (mission) and Vision?*

#### Outcome

An **Outcome** is the medium (or even longer term) result(s) for one or more specific beneficiaries as a result of achieving specific **Outputs**. Completion of an **Output** results in an **Outcome** is "*what we wish to achieve*".

Question to ask: What Output(s) is/are required to achieve a desired Outcome?

#### Output (APP)

The final product(s), or goods and services produced for delivery. An **Output** may be defined as "*what we produce or deliver*". **Output(s)** is/are the building block(s) towards the desired **Outcome(s)**.

Question to ask: What will the final product/service look and feel like when it has been successfully delivered.

#### Indicator

An indicator is a predetermined signal that a specific point in a process has been reached or result achieved. It indicates a unit of measurement that specifies what is to be measured along a scale or dimension but does not indicate the direction or change. In addition, indicators can be qualitative or quantitative measures – but **MUST BE RELEVANT**. E.g. 'number of meetings attended' is an irrelevant 'indicator'.

Question to ask: How will I know/what will tell me that the Output has been achieved

### **(a) Qualitative indicator(s)**

Reveals whether a certain situation is present or not. Answers why and how a certain phenomenon may occur rather than how often. This data is then analysed and interpreted to reveal trends which explain the 'why' and 'how'.

An internal SWOT analysis for example is a Qualitative indicator of Organization health.

### **(b) Quantitative Indicators**

Expressed in terms of amounts, numbers, ratios, percentages, and measurement of given a numerical values that can be easily compared to targets to assess performance – that is provided that the basis for measurement ('apples vs apples' principle) remains the same over the time of measuring.

### **Targets (APP)**

Targets are the score the institution would like to achieve which are time bound and achievable. Targets are **Specific; Measurable; Achievable; Realistic** and **Time bound**.

Question to ask: Using my indicator to measure, what must be achieved by a certain time?

### **Baseline**

The current performance we want to improve or maintain if it has always been satisfactory.

Question to ask: Does current performance need to be improved or must current performance be maintained (and not allowed to "slip")

### **Technical Indicator Description (TID)**

This provides a description the Impact, Outcome and Output Indicators and targets to outline data collection processes, gathering of portfolio of evidence and acceptable level of performance at the beginning of the planning cycle.

## 16. Institutional Performance Information

This section aims to monitor the extent to which the strategic objectives, outcomes and impact identified in this annual performance plan are achieved. When measuring the Impact and Outcomes which this annual performance plan aims to achieve, it is important to note that FPB by itself cannot achieve the goals. Instead, it can contribute to achieving the identified outcomes together with other relevant stakeholders. Furthermore, measuring the Outcomes identified will assist FPB to assess whether the implementation of its revised 2022-2026 Strategic Plan has the desired effect on the South African public, and whether there is a need for further revision of the Strategic Plan to ensure the attainment of the identified goals. The central feature of the sixth democratic administration is implementation. This means that concerted effort must be redirected from planning towards actual achievement that contributes to the vision of the National Development Plan (NDP). The State of the Nation Address (SoNA) by the President on 11 February 2022, reflected the reality of our people and set out the broad framework to respond to the challenges confronting the nation. It articulated seven priorities aligned to the NDP and Medium-Term Strategic Framework (MTSF) namely:

- Priority 1: Building a capable and ethical developmental state
- Priority 2: Economic transformation and job creation
- Priority 3: Education, skills and health
- Priority 4: Consolidating the social wage through reliable and quality basic services ;
- Priority 5: Spatial integration, human settlements and local government;
- Priority 6: Social Cohesion and safe communities
- Priority 7: A better Africa and World.

The FPB has defined five (5) strategic outcomes to be achieved over the medium to long-term. These outcomes are aligned to the FPB's mandate (Mission), the NDP and the MTSF

## 17. Strategic Focus I: Organisational Transformation

### Strategic Objective 1.1: Migration from a classification authority to online regulator

#### Outcomes and measures

Outcome	Outcome Indicator	Baseline	Five-year target
1.1.1 Digitally Driven Organisation	% of Digital Transformation Strategy Roadmap Implemented	<b>New Indicator</b>	95% of activities planned for the year achieved
1.1.2 Efficient, effective and appropriately resourced regulator	Approved Human Capital Business Improvement strategy (HCBIS)	<b>New Indicator</b>	100% completion of the HCBIS implementation plan.

## 18. Strategic Focus 2: Regulatory Capacity and Enforcement

### Strategic Objective 2.1: Efficient and effective content regulation.

#### Outcomes and Measures

Outcome	Outcome Indicator	Baseline	Five-year target
2.1.1 Improved licensing and content classification	<ul style="list-style-type: none"> <li>Percentage (%) of licensing and content classification decisions</li> </ul>	93% of Classification and registrations/ renewals baseline to be included here. 100% of	<ul style="list-style-type: none"> <li>90% of licensing and classification decisions</li> </ul>

	issued within 7 working days	licensing and 93% of content classification decisions issued within 8 working days(New indicator - there is no baseline for target as an APP target as this was an OPP for 2021/22.)	issued within 5 working days
2.1.2 Improved online content regulation	<ul style="list-style-type: none"> <li>Percentage (%) of online distributor applications (self classification) concluded within 6 months.</li> </ul>	Percentage (%) of online distributor applications (self classification) concluded within 12 months. 40% of online distributor applications concluded with 12 months (New indicator - there is no baseline for target as an APP target as this was not on the APP or OPP for 2021/22.)	<ul style="list-style-type: none"> <li>90% of online distributor applications received concluded within 6 months.</li> </ul>
2.1.3 Effective and efficient compliance and Enforcement	<ul style="list-style-type: none"> <li>Percentage (%) of matters before Enforcement committee finalised within a specific timeframe</li> </ul>	New Indicator	<ul style="list-style-type: none"> <li>90% of matters before the Enforcement committee finalised within 12 months.</li> </ul>

## 19. Strategic Focus 3: Customer Focus

### Strategic Objective 3.1: Effective and efficient service delivery

#### Outcomes and measures

Outcome	Outcome Indicator	Baseline	Five-year target
3.1.1 Efficient service delivery	Percentage (%) of consumer complaints/queries resolved within 10 working days	New Indicator	<ul style="list-style-type: none"> <li>95% of consumer complaints/queries resolved within 10 working days.</li> </ul>

## 20. Strategic Focus 4: Financial Sustainability

### Strategic Objective 4.1: Continuously improve organisational governance and risk management.

#### Outcomes and measures

Outcome	Outcome Indicator	Baseline	Five-year target
4.1.1 Maximize Non Government Revenue	The increase in Percentage (%) of Self-Generated Revenue over Total Revenue	New indicator	Self-Generated Revenue will comprise 21% of Total Revenue

## 21. Strategic Focus 5: Stakeholder Management and Collaboration

**Strategic Objective 5.1: Leverage local and international strategic partnerships to achieve the amended mandate of the FPB.**

### Outcomes and measures

Outcome	Outcome Indicator	Baseline	Five-year target
5.1.1 Increased local and international MOUs signed with strategic partners.	Number of MOUs signed with Strategic partners.	2 formalised MOUs	5 x MOUs signed with Strategic partners.

**Strategic Objective 5.2: Improved awareness of the FPB mandate.**

### Outcomes and Measures

Outcome	Outcome Indicator	Baseline	Five-year target
5.2.1 The public and industry are informed of the FPB mandate	% implementation of the Public Education Plan	100% implementation of the FPB Public Education Plan	100% implementation of the FPB Public Education plan

## 22 . Resource Considerations

### Narrative Summary

Description	MTEF		
	2022/2023	2023/2024	2024/2025
<b>Revenue</b>			
<i>Revenue from non exchange transactions</i>			
Operational Grant	102 870 000	103 860 000	108 524 000
<i>Revenue from exchange transactions</i>			
Interest received - investments	1 474 350	1 979 300	1 990 000
Regulation fees	20 680 868	26 944 540	26 791 623
<b>Total Revenue</b>	<b>125 025 218</b>	<b>132 783 840</b>	<b>137 305 623</b>
<b>Operational Expenditure</b>			
<i>Personnel</i>	73 387 954	76 073 636	78 936 980
<i>Administrative</i>	50 775 970	54 906 895	56 549 337
<b>Total Operational Expenditure</b>	<b>124 163 924</b>	<b>130 980 531</b>	<b>135 486 317</b>
<b>Total Capital Expenditure</b>	<b>861 296</b>	<b>1 803 308</b>	<b>1 819 306</b>
Total Expenditure	125 025 220	132 783 839	137 305 623
<b>Surplus/Deficit</b>	<b>-0</b>	<b>0</b>	<b>0</b>

Total revenue is projected to grow from R107.3m in the last audited period Financial Year (FY) 2020/21 to R137.3m in the outer period of the MTEF FY 2024/25. Taking note that all strategic deliverables of the entity may not be funded by the Government Grant and Subsidies, the entity is seeking to increase the percentage of Self Generated Revenue as a percentage of Total Revenue.

In FY 2020/21, Self Generated Revenue consisted of 6% of the Total Annual Revenue. The goal is to increase Self Generated Revenue to 21% of Total Annual Revenue by FY2024/25. When the Amendment Act is implemented the fines and penalties issued by the Enforcement Committee will be collected by the FPB and not paid over to the National Revenue Fund.

Total Expenditure is expected to increase in line with Total Revenue during the period. The FPB is a Schedule 3A PFMA entity and accordingly does not budget for a surplus nor a shortfall. The budget going forward will be reprioritised to accommodate the following priorities,

Regulatory Development & Research Analysis, and Enforcement. This includes human resource expenses and operational costs. The FPB will examine existing procurement and the current status thereof and determine whether to proceed or hold in abeyance or cancel and redirect funding accordingly.