



DSTV

ANNUAL COMPLIANCE

REPORT

MARCH 2019

2017/2018 ANNUAL COMPLIANCE REPORT
MULTICHOICE PTY LTD BROADCASTING AS DSTV
Licence Period: 04 August 2008 - 03 August 2023

1. PREFACE

The Independent Communications Authority of South Africa (the Authority) has a statutory mandate in terms of the Constitution¹, the ICASA Act² the Electronic Communications Act³ (ECA) and the Broadcasting Act⁴ to regulate broadcasting activities in South Africa in the public interest. The Authority, therefore, is tasked with ensuring that Broadcasting Service Licensee comply with the said pieces of legislation, relevant regulations as well as specific terms and conditions of their licence.

The purpose of this report to give an account of MultiChoice's performance for the 2017 – 2018 financial year. The report focuses on the following aspects: Geographic Coverage, Languages, Format, Training and Skills Development Obligations, Staff Development Equity Plan, Ownership and Control by Previously Disadvantaged Individuals, Finances, Contribution to the Broadcasting Sector, South African Television Content Regulations, Must Carry Regulations, Universal Service and Access Fund Regulations, Subscription Broadcasting Regulations, Licence Fees Regulations, Code on People with Disabilities, Sports Broadcasting Rights Regulations and Regulations on Standard Terms and Conditions.

2. BACKGROUND

On 04 August 2008, the Authority granted and issued a commercial subscription television and sound broadcasting service licence to MultiChoice

¹ The Constitution of the Republic no 108, 1996

² ICASA Act no 13 , 2000 as amended

³ Electronic Communications Act no 36, 2005

⁴ Broadcasting Act no 4 of 1999

Africa (Pty) Ltd. The shareholder as reflected in the licence is MultiChoice South Africa Holdings (Pty) Ltd.

The ownership held by persons from historically disadvantaged groups is as follows: MultiChoice Africa (Pty) Ltd: 55,75%.

3. COMPLIANCE ASSESSMENT

3.1 Geographic Coverage Area

Clause 2 of the licence stipulates that:

"The Licensee shall provide national coverage of its broadcasting services".

The Licensee confirms that it provides its service through satellite and therefore provides national coverage of its broadcasting service.⁵

The Licensee complies with clause 2 of its licence.

3.2 Encryption of signal and use of licensed electronic communications network service.

Clause 3.1 of the licence states that:

"The Licensee must ensure that the output signal of its subscription broadcasting service is encrypted".

Clause 3.2 of the licence provides that:

"The Licensee shall use the licensed communications network service of a Licensee".

The Licensee confirms that the output signal of its subscription broadcasting service is encrypted. The Licensee has also confirmed that its network service provider is Orbicom (Pty) Ltd, which is a licensed communications network service provider. The Orbicom licence is attached as Appendix B.

⁵ Appendix A: Subscription Broadcasting Service Licence

The Licensee complies with clauses 3.1 and 3.2 of its licence.

3.3 Language(s)

Clause 4 of the licence states that:

"This is left to the discretion of the Licensee".

A significant number of the Licensee's programmes are broadcast in English. However, other programmes are broadcast in other languages such as Portuguese, Afrikaans and Indian languages.

The Licensee complies with clause 4 of its licence.

3.4 Format

Clause 5 of the licence stipulates that:

"The Licensee is licensed to provide a subscription broadcasting service aimed at the general public and niche markets".

The Licensee confirms that its service is aimed at the general public, through its general entertainment channels and niche market through its special interest channels.

The Licensee complies with clause 5 of its licence.

3.5 Training and Skills Development Obligations

Clause 6.1 of the licence provides that:

"The Licensee shall ensure that training and development needs of its staff, with particular emphasis on individuals from historically disadvantaged groups, are identified on an annual basis and are reflected in its workplace skills plan".

The Licensee submitted its workplace skills report for the period under review. The Licensee maintains that learning and development initiatives of its employees with emphasis on individuals from historically disadvantaged groups were implemented. The report details the programmes offered and the beneficiaries in terms of gender, race and budget:

(a) Business skills training and job specific training

The Licensee submits that it committed eighty percent (80%) of its training budget to develop its employees on business and job specific training, seventy percent (70%) of the total spend on developing the previously disadvantaged persons and sixty percent (60%) of the budget was spent on female employees.

(b) Management and leadership development

The training programme included New Management Programme, Leading Women, Catalyst Programme and Strategic Media Leadership Program. The Licensee spent eighty-nine percent (89%) of its leadership development budget on historically disadvantaged persons and fifty-three percent (53%) of the total spend was on female employees.

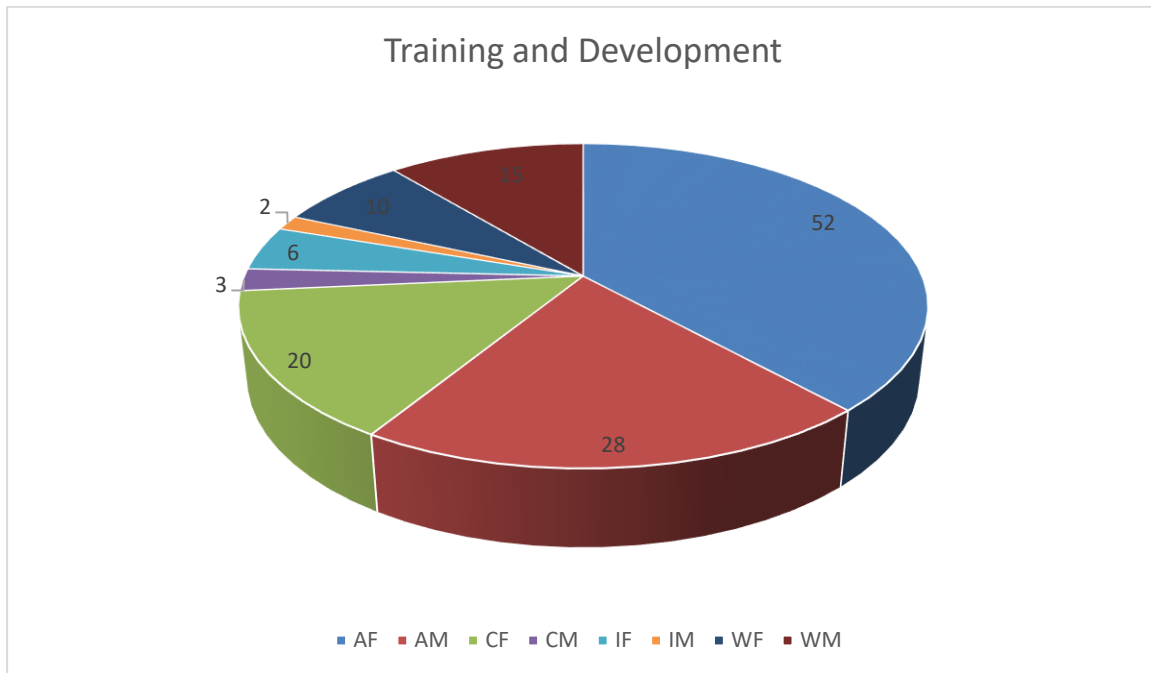
(c) Talent management

Eight (8) employees were earmarked for succession development and are currently receiving executive coaching in line with future general management needs. The Licensee also states that there are nine (9) other employees who completed the "*Management Advancement Programme*", six (6) were historically disadvantaged individuals and three (3) were female employees.

(d) Bursaries for senior managers

The Licensee notes that eight (8) bursaries were awarded to senior employees from historically disadvantaged backgrounds during the period under review. Six (6) females (5 Black and 1 White) and two (2) Black males were beneficiaries of the awards.

Training and development programme statistics by Gender and Race



The above chart demonstrates that focus was on persons from previously disadvantaged backgrounds.

The Licensee complied with clause 6.1 of its licence conditions.

Clause 6.2 of the licence states that:

"The Licensee shall submit its workplace skills plan to the Authority within a month of issuing of this licence and thereafter by the 30th of June each year".

The Licensee submitted its workplace skills plan to the Authority in accordance with the requirement.

The Licensee complied with clause 6.2 of its licence.

Clause 6.3 of the licence reads:

"The workplace skills development plan shall report on and review a twelve month period (April to March), and shall include targets in terms of race and gender".

Clause 6.4 of the licence requires:

"The workplace skills plan shall reflect race and gender targets at all occupational levels, including senior and top-level management".

The Licensee submitted its workplace skills development plan that reflects targets in terms of race and gender. For example, 9 employees who completed the "Management Advancement Programme" are from historically disadvantaged groups. The chart above (overall statistics of the training and development programme) demonstrates race and gender targets. The Licensee's training and skills submission⁶ reflects that a total of eighteen (18) senior and top-level managers were included in the development programmes, eight (8) female and ten (10) male employees.

The Licensee has complied with clause 6.3 and clause 6.4 of its licence.

3.6 Staff Development and Equity Plan

Clause 7.1 of the licence stipulates that:

"The Licensee shall submit its five-year employment equity plan to the Authority within a month of the issuing of this licence".

The Licensee submitted its five-year plan to the Authority in line with clause 7.1 of its licence.

The Licensee complies with clause 7.1 above.

⁶ Appendix C: Training and Skills Development Programme (HR)

Clause 7.2 of the licence requires that:

"This employment equity plan shall report on and review a twelve-month period (October to September), and shall include targets in terms of race and gender".

Clause 7.3 of the licence specifies that:

"The employment equity plan shall reflect race and gender targets at all occupational levels, including senior and top-level management".

The Licensee submitted information in respect of clause 7.2 and clause 7.3 above. The report outlines targets at occupational levels including senior and top-level management as well as targets in respect of race and gender as follows:

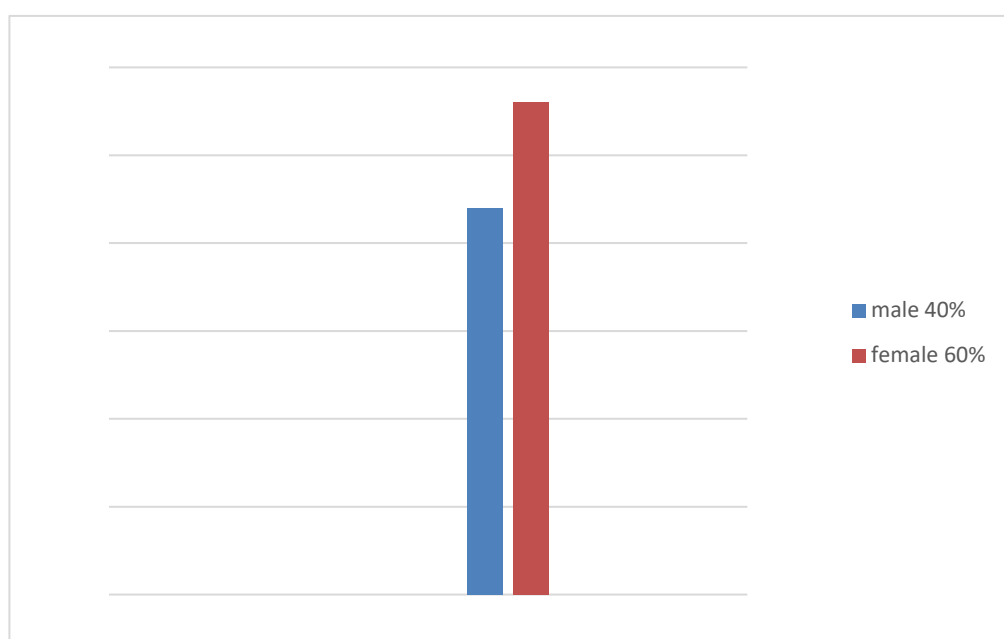
(A) Female

Occupational level	African	Coloured	Indian	White	Foreign National
Top management	1	0	0	1	0
Senior management	23	11	7	50	6
Professional and Mid management	100	29	45	53	10
Skilled and Junior management	516	77	62	57	9
Semi-skilled	885	57	12	7	1
Unskilled	42	6	2	0	0
Grand total	1567	180	128	168	26

(B) Male

Occupational level	African	Coloured	Indian	White	Foreign National
Top management	2	0	0	6	0
Senior management	30	12	25	70	7
Professional and Mid management	110	32	62	100	23
Skilled and Junior management	411	60	63	75	14
Semi-skilled	428	24	10	4	0
Unskilled	24	7	5	0	0
Grand total	1005	135	165	255	44

The figure below represents the Licensee's overall gender breakdown of employment equity for the period under review:



The Licensee complies with clause 7.2 and clause 7.3 of its licence.⁷

Clause 7.4 of the licence provides that:

"The Licensee shall submit an annual compliance report in the format prescribed by the Authority".

The Licensee submitted its annual compliance report in accordance with clause 7.4 of the licence.

The Licensee is therefore compliant with clause 7.4 of its licence.

3.6 Target Market

Clause 8 of the licence states that:

"Primarily LSM 2-10 as defined in the All Media Product Survey (AMPS) 2007".

The Licensee confirmed that it continues to provide its service to the target market as defined in the service licence conditions.

The Licensee complies with clause 8 of its licence.

3.7 Ownership by Individuals from Historically Disadvantaged groups

Clause 9 of the licence states that:

"The Licensee shall have no less than 30% ownership by persons from historically disadvantaged groups".

The Licensee confirmed that it has more than 30% ownership from historically disadvantaged groups. The ownership by HDI's as at 31 March 2018 was 55.75%.

The Licensee complies with clause 9 of its licence.

⁷ Appendix D: Employment Equity Report

3.8 Financial Year End

Clause 10.1 of the licence stipulates that:

"The financial year end of the Licensee is 31 March".

Clause 10.2. of the licence provides that:

"If this date changes, the Licensee shall in writing notify the Authority thereof within seven (7) business days of the change".

During the period under review, the Licensee confirmed that its financial year end is 31 March each year; this is also reflected in the Licensee's Audited Financial Statements.

The Licensee complies with clause 10.1 and clause 10.2 of its licence.

3.9 Contribution to Broadcasting Sector

Clause 11.1 of the licence states that:

"The Licensee shall promote and support the South African broadcasting industry to the value of R5 000 000.00 (five million Rand) per year, focusing predominantly to disadvantaged groups, SMMEs, students and youths from historically disadvantaged groups".

Clause 11.2 of the licence prescribes that:

"Within 3 months of its financial year end the Licensee shall deliver to the Authority a written report demonstrating compliance with this clause."

During the period under review, the Licensee submitted that it formed a partnership with five (5) community television channels through the MultiChoice Diski Challenge which began in 2014 and continued in 2018. The community television channels are: 1KZN TV, Bay TV, Cape Town TV, SOWETO TV and Tshwane TV. The initiative is a social investment programme that aims to empower young people through broadcasting skills development and football, community television channels participate as partners with full

rights to all content for the programme to grow their broadcast capacity and content. The community television channels receive full content distribution rights for all content generated for the MultiChoice Diski Challenge through the donation. MultiChoice also provides technical support and equipment to the television channels.

The contents rights initiative provided to community television channels was over thirty million rand (R30 000 000) and enabled the channels to:

- Become involved in the delivery of live sports content to community television audiences who do not have access to DStv.
- Enhance their own viewership profiles and gain a stronger market presence that will improve their ability to commercialise the content.

The Licensee complies with clause 11.1 above.

4 REGULATIONS

4.1 Must Carry Regulations

Regulation 4 of the ICASA Must Carry Regulations as published in the Government Gazette, no 31500, 10 October 2008 provides that:

"All Subscription Broadcasting Service Licensees must carry the channels of the Public Broadcasting Service Licensee, designated as must carry channels as part of the service offering, subject to Regulation 5".⁸

The Licensee has confirmed that it complies with this obligation as it carries all three channels of the South African Broadcasting Corporation (SABC).

Regulation 8 requires that:

"The subscription broadcasting service Licensee must submit a copy of the agreement within thirty (30) days of such agreement being concluded and signed."

⁸ Appendix E: Must Carry Regulations

For the period under review, the Licensee submitted that it signed the Must Carry Agreement as required by Regulation 8, with the SABC. The Agreement was signed on 14 April 2011 and was submitted to the Authority on 09 May 2011.

The Licensee complies with the requirements set out in the Must Carry Regulations.

4.2 Subscription Broadcasting Services Regulations

Regulation 5 of the Subscription Broadcasting Regulations as published in the Government Gazette, no 28452, 31 January 2006 provides that⁹:

"A subscription broadcasting service shall, within 120 days after the end of its financial year of operation, submit to the Authority audited financial statements stating that, in the opinion of the auditor, the accompanying statements give a true and fair view of the Licensee's subscription, advertising and sponsorship revenue derived from the provision of the subscription broadcasting service."

The Licensee submitted its Audited Financial Statements to the Authority for the period ending 31 March 2018.

The Licensee complies with Regulation 5 above.

Section 60(4) of the ECA states that:

"Subscription broadcasting services may draw their revenues from subscriptions, advertising and sponsorships, however, in no event may advertising or sponsorships or a combination thereof, be the largest source annual revenue."

The Audited Financial Statements of the Licensee show that the Licensee complies with section 60(4) of the ECA in that, the revenue derived from

⁹ Appendix F: Subscription Broadcasting Services Regulations

subscription far exceeds revenue derived from advertising. The figures cannot be revealed due to the fact that the Licensee applied for confidentiality to its financial information which was granted by the Authority.

The Licensee complies with section 60(4) of the ECA.

"A subscription broadcasting service Licensee may not add a channel to its service unless the Authority, on application by the Licensee, has authorised the channel".

The Licensee confirmed that it applied and was granted, by the Authority, authorisation to add 33 channels in the previous financial year.

The Licensee complies with the above Regulation.

4.3 Licence Fees Regulations

General Licence Fees Regulations as published in the Government Gazette, no 32084, 01 April 2009, provides that:

"Individual Commercial Broadcasting Service Licensee's must pay annually to the Authority a licence fee of 0.15 - 0.35 % of its gross profit".¹⁰

Schedule 3(4)(b) of the General Licence Fees Regulations provides that:

"Annual payments are due and payable within 6 months from the end of the Licensee's financial year".

The Licensee paid its annual licence fee to the Authority on 28 September 2018.

The Licensee complies with the Licence Fees Regulations.

4.4 Universal Service and Access Fund Regulations

Regulation 3(1) of the Regulations in respect of Prescribed Annual Contributions of Licensees to the Universal Service and Access Fund (USAF)

¹⁰ Appendix G: General Licence Fees Regulations

as published in the Government Gazette, no 31499 of April 2009 requires that:

"Every holder of a Licence granted in terms of Chapter 3,4 and/or 9 or converted in terms of Chapter 15 of the Act, must pay an annual contribution of 0.2% of the annual turnover, derived from the Licensee's licence activity, to the Fund (the Fund)".

Further, Regulation 3 (3) requires that:

"A broadcasting service Licensee who has paid an annual contribution to the Media Development and Diversity Agency (MDDA) must set off that contribution against its prescribed annual contribution to the Fund".¹¹

The Licensee paid its annual USAF contribution less contribution to the MDDA to the Authority on 28 September 2018.

The Licensee complies with the regulations in respect of Universal Service and Access Fund.

4.5 South African Television Content Regulations

Regulation 5.4 of the South African Television Content Regulations published in the Government Gazette No 28454, dated 31 January 2006 provides that:

"A subscription broadcasting Licensee must spend a minimum of 10% of its content acquisition budget on acquisition of channels with local content which are compiled and uplinked from South Africa".

For the period under review, the Licensee confirmed through its submission that it spent in excess of 10% of its acquisition budget on channels with local content that are compiled and uplinked in South Africa. As indicated, details of the amount spent cannot be disclosed in this report as the Licensee applied for confidentiality in this regard and same was granted by the Authority.

¹¹ Appendix H: USAF Regulations

The Licensee complies with the minimum 10% of its content acquisition budget stipulated under Regulation 5.4.

4.6 South African Music Content Regulations

Sub-Regulation 4 of the ICASA South African Music Regulations 2016 published in the Government Gazette No 39844, dated 23 March 2016 provides that:

"A holder of a subscription sound broadcasting service licence must ensure that after eighteen months from date of gazetting of these regulations, a minimum of 20%, increasing to 30% in the following year, of its bouquets consist of channels made up of South African music content".

The Licensee's submission¹² confirmed that during the period under review, the MultiChoice audio bouquet consisted of more than 20% channels are made up of South African music as defined in the ICASA South African Music Regulations of 2016.

The Licensee complies with the South African Music Content Regulations.

4.7 Standard Terms and Conditions for individual broadcasting Licensees Regulations¹³

During the year under review, the Authority did not find any act of non-compliance by the Licensee in this regard.

4.8 Code on People with Disabilities

Clause 3.1(a) of the Code on People with Disabilities as published in the Government Gazette, no 30441, 7 November 2007, states that:

¹² Appendix I: Audio

¹³ Appendix J: Regulations Regarding Standard Terms and Conditions for Individual Licences

"Broadcasting service Licensees must ensure that their services are made available to and are accessible to people with disabilities".¹⁴

Clause 3.1(b) stipulates that:

"Options for making broadcasting services more accessible may include the following:

- i. Improve and/or increase subtitles and sign language;*
- ii. Expand knowledge on various adjustments such as induction loops, Minicom/text phones and alternatives computer software;*
- iii. Access to programme support such as fact sheet;*
- iv. Website to offer a range of formats (such as electronic versions, Braille and audiotape);*
- v. Use of spoken languages where economic indicators, weather details, telephone numbers and addresses or details of goods and services are shown on-screen; and*
- vi. Use of non-scheduled services such as access via Personal Video Digital Recorders (PVR's) and TV anytime".*

Clause 3.1(c) states that:

"Broadcasting service Licensees must monitor the effectiveness of their service through surveys as well as contact with organisations of and for people with disability and stakeholders".

The Licensee submitted that as part of its compliance with the code, it has embarked on the following projects aimed at ensuring that its services are accessible to people with disabilities:

➤ **Subtitling for people with hearing disabilities:**

The Licensee defines subtitling as a technology that is used by the content industry and is aimed at improving the viewing experience and access by deaf or hearing impaired. M-Net, M-Net Edge, Vuzu Amp, Vuzu, M-Net City,

¹⁴ Appendix K: Code on People with Disabilities

Kyknet, Mzansi channels and all M-Net Movie channels have subtitles. The Licensee also included live voice text technology on Sky News channel (channel 402), making it the first live news channel to offer this feature in South Africa. The subtitles are delivered without delay during a live broadcast as they are inserted via “voice to text” technology.

➤ **Audio Descriptive for Sight Impaired:**

The Licensee has introduced Audio Descriptive Tracks (ADT) that is aimed for the blind or visually impaired on some of its programming. ADTs use succinct and vivid words to convey a visual image, through illustration, the visually impaired viewer is able to follow the narration and dialogue by the characters in a motion picture by experiencing the context or actions by the actors. ADTs ensure access to the context or actions a blind viewer cannot see by description, for example, character X is walking or character X is approaching character B. ADTs are available on some films and selected decoders. The list of films with ADTs is made available to Blind SA on a monthly basis.

➤ **DSTV Audio Books Website:**

DSTV’s Tape Aids for the Blind website, offers members of Tape Aids for the Blind free access to digitised copies of books that can be downloaded and listened to. DSTV/MultiChoice worked together with Tape Aids for the Blind to obtain digitised copies of books and made the website available to their members.

The Licensee is also investigating the feasibility of highlighting programmes and channels with subtitling services on its on-air schedule. This will be done by adding a filter to several screens on the decoders that will highlight which content includes subtitles to enable viewers seeking content with subtitles to select, record or set reminders for their chosen content. These interactions are aimed at complying with regulation 3.1(c) of the Code on People with Disabilities.

Based on the above submissions, the Licensee is compliant with the Code on People with Disabilities.

4.9 Sports Broadcasting Regulations

Regulation 9(2) of the Sports Broadcasting Rights Regulation as published in the Government Gazette, no 33079, 7 April 2010 requires that:

"A broadcaster, who is involved in broadcasting national sporting events, shall file the records of its broadcasts one hundred and twenty (120) days from the date of the publication of these regulations and after every year from the date of the first filing".¹⁵

The Licensee submitted to the Authority, records of broadcast, on 30 October 2017.

The Licensee complies with the Sports Broadcasting Regulations.

5 CONCLUSION

The Licensee has demonstrated satisfactory compliance with its licence terms and conditions, applicable legislation and regulations.

6 TERMS OF REFERENCE:

- Appendix A: Multichoice licence conditions
- Appendix B: Orbicom Licence
- Appendix C: Workplace Skills Plan
- Appendix D: Staff Development and Equity Plan Report
- Appendix E: Must Carry Regulations
- Appendix F: Subscription Broadcasting Services Regulations
- Appendix G: Licence Fees Regulations
- Appendix H: USAF Regulations
- Appendix I: Audio
- Appendix J: Standard Terms and Conditions Regulations
- Appendix K: Code on People with Disabilities
- Appendix L: Sports Broadcasting Rights Regulations

¹⁵ Appendix L: Sports Broadcasting Regulations