



Ms. Pumela Cokie

Independent Communications Authority of South Africa

350 Witch-Hazel Road, Eco- Park; Centurion

By Email: [PCokie@icasa.org.za](mailto:PCokie@icasa.org.za)

15 August 2025

Dear Ms Cokie

**SOS COALITION SUBMISSION ON ICASA'S DRAFT DIGITAL TERRESTRIAL TELEVISION REGULATIONS 2025**

ABOUT THE SUBMITTING ORGANISATION: SOS SUPPORT PUBLIC BROADCASTING COALITION (SOS)

SOS Support Public Broadcasting Coalition (SOS) is a civil society coalition that is committed to, and campaigns for, broadcasting services that advance the public interest. While the South African Broadcasting Corporation (SABC) is its primary focus – as the key site of and the institution established to drive public interest broadcasting – SOS also engages in the advancement of community broadcast media in South Africa. SOS is a coalition made up of a broad range of civil society organisations, non-governmental organisations (NGOs), community-based organisations (CBOs), community media, independent film and TV production sector organisations, and individuals (including academics, freedom of expression activists, policy and legal consultants, film makers, producers, etc).

SOS campaigns tirelessly for an independent and effective public broadcaster. We engage with policymakers, regulators, and lawmakers to secure changes that will promote citizen- friendly policy, legislative and regulatory changes to broadcasting and its associated sectors.

SOS made a submission on the Discussion Document in June 2024 as a joint submission with Media Monitoring Africa (MMA) and we will refer to that submission as the “joint submission” where relevant. We wish to draw ICASA’s attention to the fact that this submission is made in the name of SOS, as MMA will be making a separate submission on these final regulations.

## **1. BACKGROUND TO ICASA DTT REGULATIONS AND INTRODUCTION TO SOS SUBMISSION ON THE ICASA**

1.1. The Independent Communications Authority of South Africa (ICASA) in terms of the Electronic Communications Act (36/2005) (ECA) published Draft Broadcasting Digital Migration Framework Regulations on 03 October 2008 in Government Gazette Notice 1240 of 2008. The civil society coalition, Save our SABC (as the Coalition was then known, now the SOS Support Public Broadcasting Coalition) submitted written representations and made presentations at the oral hearings.

1.2. At the hearings ICASA gave all interested parties the opportunity to submit additional comments by 23 January 2009. The Coalition duly submitted these. On 31 March 2009, ICASA again published draft Regulations for comment in Government Gazette No 32083, Notice 344 of 2009. The Coalition made a further submission. On 3 July 2009, ICASA then published the Regulations. However, the Regulations were then later withdrawn and then republished on 4 September 2009 for further comment in Government Gazette Notice 32559 of 2009. The final version of the Regulations was published on 14 December 2012 in Government Gazette No. 36000 (“**the 2012 Regulations**”).

1.3. In March 2024, twelve years after the Digital Terrestrial Television (DTT) regulations were published, and the Analogue Switch Off (ASO) was yet to be

implemented, ICASA published a Discussion Document to support a review of the Review of Digital Migration Regulations as Notice 2385 in Government Gazette 50329, 22 March 2024.

1.4. SOS made written representations, the “joint submission”, on the review of the 2012 Regulations and the accompanying Discussion Document (“**the Discussion Document**”) and participated in the public hearings which took place on 28 June 2024. As was stated in our written submission of June 2024 several of the issues which SOS raised in our submission have been ventilated before by the Coalition in the numerous submissions made to ICASA. These issues were also raised during policy processes to the Department of Communications and Digital Technologies (“DCDT”), more specifically in response to the DCDT’s Draft White Paper on Audio and Audiovisual Media Services and Online Content Safety<sup>1</sup>. However, SOS believes that they are still relevant and have not been sufficiently addressed by ICASA in the Discussion Document.

1.5. In March 2025, ICASA published its Findings Document on the Review of Digital Migration Regulations (“**the 2025 Findings Document**”) as Notice 3090 in Government Gazette 52392.

1.6. In July 2025 ICASA published the Draft Digital Terrestrial Television Regulations 2025 in Government Gazette No 52946, Notice 355 of 2025 (“**the 2025 Draft DTT Regulations**”) calling for written comments to be made 30 working days from the date of publication. SOS wishes to thank the ICASA for the opportunity to make these written submissions on the 2025 Draft DTT Regulations and hereby requests the opportunity to make oral submissions when ICASA holds the public hearings on these Regulations.

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<sup>1</sup> Department of Communications and Digital Technologies. (2023). The Draft White Paper on Audio and Audiovisual Media Services and Online Content Safety: A New Vision for South Africa. Government Gazette No. 49052.

1.7. To the dismay of SOS, even after the publication of the White Paper, which was a draft rather than a final policy, several policy and regulatory issues that impact the ASO still remain unresolved. The White Paper provides no indication of government's plans to finalise the digital switchover. Moreover, there is no indication of whether the Minister of Communications and Digital Technologies (CDT), Solly Malatsi plans to issue any further policy directions to ICASA in terms of section 5(6) of the Electronic Communications Act 36 of 2005, to invite applications for licenses to compete in the free-to-air-or subscription broadcasting market post ASO.

1.8. In addition to these *lacunae*, the public service remit and the funding of the SABC's public service mandate remain in limbo. In the view of SOS, the resolution of the SABC's mandate in the post ASO era is central to the finalisation of the SABC's funding model and the channel plans on DTT and DTH post ASO, and importantly how these plans will deliver on more local content across all channels – a major driver for audiences to migrate to digital platforms and to provide the necessary stimulus for the growth of a sector drained of resources over the past two decades.

1.9. The absence of any final policy positions regarding the mandate and structure of the SABC, and proposals on the licensing of public, commercial and community channels post ASO, ICASA is faced with yet further uncertainty as it strives to design a licensing framework and appropriate licence conditions, among others, for the digital platforms.

1.10. The 2012 Regulations, SOS argued in June 2024, are currently in force, at least until the date of the ASO and their purpose is to:

- 1.10.1. regulate the digital migration of the existing television channels;
- 1.10.2. prescribe the conditions for the assignment of channel capacity in Multiplex 1 and Multiplex 2 for digital migration and the creation of a platform for DTT;
- 1.10.3. prescribe the procedure for the authorisation of digital incentive channels; and

1.10.4. set the time frames within which the terrestrial television broadcasting service licensees must provide for dual illumination.

1.11. In light of the fact that the Draft White Paper has now been published as a final draft<sup>2</sup> (**"The Draft White Paper"**), containing a number of proposals for public comment, this submission will make reference to those proposals that bear relevance to this regulatory process.

## OUTLINE OF THIS SUBMISSION

1.12. This submission is therefore structured in two parts:

1.12.1. A general overview of the SOS response to the general provisions of the 2025 Draft DTT regulations outlining our views and certain concerns regarding these Regulations; and

1.12.2. A detailed response to specific provision in the 2025 Draft DTT Regulations, with specific emphasis on matters the SOS Coalition has been lobbying and advocating for since the publication of the draft regulations in 2009.

## 2. GENERAL OVERVIEW

2.1. As a starting point SOS is of the view that the 2025 Draft DTT Regulations have been developed in a policy vacuum and therefore still subject to the many uncertainties outlined in our 2024 submission, given that the 2025 Draft White paper did not provide the policy certainty expected by ICASA and the SOS Coalition.

2.2. A second point relates to the context that the Authority has provided for the decisions they have made regarding the 2025 Draft DTT Regulations. In the Findings Document, ICASA thanked those making submissions, but in doing

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<sup>2</sup> Department of Communications and Digital Technologies. (2025). The Draft White Paper on Audio and Audiovisual Media Services and Online Content Safety, Notice 3369 in Government Gazette 52972, 11 July 2025.

so also revealed the limited scope of their review. ICASA stated that the review had “been critical in shaping its understanding of the current state of DTT and the necessary steps to support the sector’s growth”. The problem is that ICASA was expected to take a far broader view of developments in the sector not just the “state of DTT”. Of course, ICASA was hamstrung in its efforts by the absence of a policy, and the outcome has therefore ignored major developments in the market which will further impact as successful ASO: the slow pace of the roll out of DTT and the rapid growth of Over-the-Top (OTT) services (including video streaming and user generated content/video sharing platforms).

2.3. A point SOS made about the Discussion Document was that it appeared to be at odds with the aim of the Review to “redefine the purpose of the existing regulations, aligning them with the post-digital migration landscape based on inputs from stakeholders”<sup>3</sup>.

2.4. It was our understanding at the time that the 2012 Regulations were designed to cater for the period leading up to the Analogue Switch Off (ASO), and technically these would lapse on the 31 of December 2024, the date announced by the then Minister as the date of the final ASO<sup>4</sup>. As ICASA is aware, that Minister Malatsi postpone the ASO date of 31 December 2024 to 31 March 2025. This pronouncement was made in a meeting the Minister summoned on 5 December 2024 with broadcasters and interested parties. This ASO date was subsequently suspended following court proceedings and an interdict to which SOS was a party, until all households receiving analogue television had migrated to a digital platform.

2.5. Finally, SOS is concerned that the Draft DTT Regulations do not provide clarity regarding the application of the Local Television Content Regulations, whether these still apply to existing licensees providing existing or new channels on the DTT platform. SOS urges ICASA to ensure that these regulations will continue to apply, and where necessary they can be reviewed to promote the gradual

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<sup>3</sup> At paragraph 3.1.1 of the Discussion Document.

<sup>4</sup> Notice 3554 in Government Gazette 48793 dated 15 June 2023

increase of more original South African television content across all digital platforms, in particular, DTT and Direct to Home (DTH).

## THE POLICY VACUUM

2.6. SOS has made extensive submissions on the various iterations of the Draft White Paper, specifically regarding the future sustainability of the public service broadcaster, the SABC, and we had anticipated that the conclusion of that process would bring the necessary policy certainty for ICASA to also undertake its regulatory functions in regard to the ASO.

2.7. SOS reiterates our concerns made in previous submissions that the ASO was premature. On 28 June 2022 the Constitutional Court delivered its judgment in the matter of *e.tv (Pty) Ltd v Minister of Communication and Digital Technologies & Others; Media Monitoring Africa & Another v e.tv (Pty) Ltd & Others 2022 (9) BCLR 1055 (CC)* (“**the judgment**”). The judgement found that the Minister lacked the necessary information regarding the number of individuals eligible and interested in registering for STBs before the analogue switch-off date, as stated in paragraph 74 of the judgment. In fact, the government has not been forthcoming about the number of households that will be impacted by the ASO date. The Constitutional Court’s unanimous reasoning in this regard was that: At paragraph [78]:

*The flaws in the process leading up to the determination of the analogue switch off date meant that the determination was made without any reliable sense of its impact on millions of indigent persons, whose currently working television sets will be rendered useless.*

*If a central purpose of the analogue switch off decision is to mitigate the adverse impact of switch off, a process that failed to provide guidance on the number of households requiring STBs is inevitably coloured with irrationality.*

At paragraph [79]:

*...what tainted her decision with irrationality, was to adopt a process which meant that the analogue switch off date was determined without considering the numbers of households which would be adversely affected by such switch off.*

- 2.8. The uncertainty continues, surrounding: (a) the quantity of non-functional installed Set-Top Boxes (STBs); (b) the actual number of households that have self-migrated, as opposed to those assumed to have done so; this includes investigating the reasons behind why those who have not migrated or registered have chosen not to do so.
- 2.9. The determination of a new ASO date should demonstrate and guarantee that the issues highlighted in the court judgement which made the previous ASO date unconstitutional have been corrected, to avoid yet another unconstitutional and irrational ASO determination and subsequent litigation. To date, there is limited information regarding commercial set top boxes (STBs) for those who do not qualify for the subsidised installations.
- 2.10. SOS remains extremely concerned about the impact of the ASO date on the public broadcaster, the SABC, particularly given the 40% audience loss the SABC experienced when 5 provinces switched off the analogue signal. The SABC stands to lose more if the switch off happens prematurely without adequate roll out of STB installations.

#### THE FURTHER DELAYS REGARDING THE ANALOGUE SWITCH OFF

- 2.11. In March 2025 e.tv, SOS and MMA initiated court proceedings to interdict the Minister of CDT from proceeding with the ASO. The Application was in two parts. Part A sought an urgent interdict to suspend the ASO date of 31 March 2025, pending the final determination of Part B, to review the minister's decision to set the ASO date. The applicants argued that the Minister yet again failed to consult with affected parties, rendering the decision to switch off, irrational. The parties argued that the ASO date threatened the constitutional right to freedom of expression and access to information for millions of indigent households who still rely on analogue television to receive news and information. Also, the fact



that the decision was actually taken by Cabinet was significantly criticized by the applicants as error of law on the basis that only the minister is by law, empowered to make such a decision – not the Cabinet.

2.12. Subsequently, the court ruled in favour of the applicants and issued an interim order interdicting the implementation the ASO date of 31 March 2025. The order is set out below:

- a) The application is heard urgently and the applicant's departure from the Rules is condoned.
- b) Pending the final determination of the relief sought in Part B of this application:
  - The operation of the final ASO date of 31 March 2025, as announced by the Minister of CDT on 5 December 2024, is suspended; and
  - The Minister of CDT is interdicted from taking any steps to implement the switch-off of analogue signals and ending dual illumination; and
  - Sentech SOC Limited is interdicted from taking any steps to implement the switch-off of analogue signals and ending dual illumination.
- c) The Minister of CDT shall bear the costs of Part A of this application.

2.13. The situation that pertained before the latest court proceedings still dogs the sector. There still has not been any effective communication on the proceedings of the STB installations since the interdiction of the ASO date among others, motivated by the fact that the Minister of CDT must properly consult with the applicants in this case and other affected parties. In fact, as at the date of drafting this submission the Minister has not made any contact with the SOS Coalition, despite his announcement during his budget vote of 11 July 2025 that he had decided to seek an out of court settlement with the parties.

2.14. As we stated in our previous submission SOS is still of the view that Parliament has also failed to adequately play its oversight role to ensure that the DCDT is held accountable for a fair digital migration process that truly

leaves no one behind. It is significant that the Parliamentary Portfolio Committee on Communication Digital Technologies (PPCCDT) has been in office for over a year, and despite scheduling a meeting to get an update from the DCDT and entities on the progress with the ASO, it cancelled the meeting and has not set a new date for this important update.

- 2.15. Further, many post offices are no longer functional, making the registration process impossible for those who only have access to these outlets and even more inaccessible for the poor and those in rural areas. Subsequently, it is not clear whether installations are ongoing and at what rate. The DCDT is not forthcoming with information on where and how the indigent should apply for STBs. There are no campaigns online and offline to drive information and maximise publicity on the ASO. ICASA must satisfy itself that the STB rollout process has been a success and call for the most recent audience data on the up take of DTT and DTH.

#### THE FATE OF LOCAL CONTENT

- 2.16. SOS believes that the 2025 Draft DTT Regulations do not sufficiently focus on the importance of the public interest content, audience needs, and protection of the public's right to universal access to a range of broadcasting services. We thus propose that the objectives of the Regulations include a clause highlighting the need to provide a framework to ensure audience needs and expectations are met through ensuring universal access to choice, quality programming, across all three tiers of the broadcasting ecosystem.
- 2.17. In this regard, SOS reiterates its support for the submissions made on the Discussion Document by the Community Television collective of which one is a member of SOS, Cape Town TV. Specifically, we support the idea that any future regulation of digital television broadcasts must recognise the fact that, in addition to Direct-to-Home (DTH) and Digital Terrestrial Television (DTT), the ecosystem traditionally comprising legacy broadcasters now includes unlicensed online streaming platforms and Over-the-Top services. All traditional broadcasters now make their services available across all three of these

platforms and consequently any new regulatory framework being considered by ICASA need to make provision for this reality.

## URGENT AUDIT OF DTT ROLLOUT

- 2.18. Finally, by way of introduction to our response, we re-iterate our call to ICASA (which was not heard previously) to undertake a thorough audit of the status of the rollout of DTT, specifically the extent to which this has had an impact on licensees required to migrate off the analogue distribution platform. The implementation of the 2025 Draft DTT Regulations would be an exercise in futility if licensees were unable to fulfil their licence obligations and comply with the regulations if the technical and commercial viability of the DTT platform is in doubt.
- 2.19. Audience adoption of the new technology is the key critical success factor of digital migration. This is recognised in Government's Broadcasting Digital Migration Policy which states that a core objective of the policy is to "create an environment for the uptake of digital terrestrial television by TV households, including the poor"<sup>5</sup>. SOS urges ICASA to heed our call and urgently and carefully review any information available to determine how many households will be affected by the ASO and critically, the reasons why those who have not migrated or registered have opted to do so.
- 2.20. As a matter of fact, SOS has conducted a few workshops in Alexandra township and Sebokeng in which it became alive to on-the-ground challenges regarding the installation of the STBs. The purpose of these workshops is to raise public awareness about the ASO and assist indigent community members to register for their government subsidised STBs. There are some community members who registered but have not received their STBs despite the system reflecting their status as 'installed'. In addition to installed malfunctioning STBs, there is one community member who received a call from the installers and confirmed her availability but never got the STB. However,

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<sup>5</sup> Clause 1.2.3 (b), Broadcasting Digital Migration Policy for South Africa, published by the Department of Communications on 08 September 2008 in Government Gazette No 31408.

her status is recorded as 'returned'. It is not clear how community member with such challenges can be assisted, as the focus currently seems to be on new installations.

2.21. The insufficient rollout of STBs to citizens and the non-availability of STBs in retail outlets raises doubts about the viability of the DTT platform and the spectre of millions of people left without access to free-to-air television, a matter SOS and MMA and community and commercial broadcasters have been at pains to address, including through litigation over the past few years. It is not just the future of DTT that is at risk but the availability of free-to-air television, and concomitant potential denial of the right to access news and information of the most vulnerable and marginalised.

2.22. Therefore, SOS reiterates our call and expects ICASA to:

2.22.1. Represent the public interest, particularly the poor, in ensuring universal service to television content during the digital migration process.

2.22.2. Consider the migration to DTT as an abject failure if it means that more than twelve million South Africans will no longer have access to television.

2.22.3. To set numerical targets regarding the reasonable number (in percentages) of South Africans who must have migrated to digital TV (DTH, and DTT) before the final ASO takes place. In our view a minimum of 85% of the population must have digitally migrated for a fair and just ASO to happen.

2.22.4. To ensure that the Minister cannot press ahead with an arbitrary ASO date if this will result in millions of citizens losing access to television.

2.22.5. Constantly remember that in the spirit of s192 of the Constitution the regulator acts in the public interest and sets numerical targets for government to ensure adoption of digital TV BEFORE the ASO can happen, as opposed to just following the Minister's demands.

2.22.6. In light of the development in the sector, SOS urges ICASA not to adopt too narrow a focus on DTT and to consider making policy proposals to the Minister of CDT to amend the Digital Migration policy to recognize DTH as a viable alternative to DTT, and to extend the subsidy for indigent households/persons to DTH Set-Top-Boxes and antennae.

2.22.7. Furthermore, ICASA should encourage the Minister of Communications and Digital Technologies to review the threshold of R3500 for such households/persons since the consumer price index has risen and definitions of the poverty line have been revised by government. When the R3500 household limit was set in 2008 the Upper-Bound Poverty Line (UBPL) was set at R682 per person by STATS SA (hence an average of R3500 for an average household). In 2024 the UBPL was set at R1634<sup>6</sup> an increase of 42%.

### 3. RESPONSE TO DRAFT DTT REGULATION

#### 3.1. DEFINITIONS

NOTE: There appears to be a typographical error in the definition of *Radio Frequency Spectrum Regulations*

*“Means the regulations published in Notice No. 279 (Government Gazette No. 38641) of 30 March 2025, as amended.”*

We assume that the reference is to

Radio Frequency Spectrum Regulations 2015 (as amended) published in Government Gazette No. 38641 (Notice 279 of 2015, 30 March 2105) (“RFSR 2015”) as amended.

#### 3.2. POLICY PRINCIPLES:

In this section SOS provides our responses to the 2025 Draft DTT Regulations. In our response to the Discussion Document, we stated several policy and regulatory principles which we consider relevant to framing our responses. We still consider these to be relevant and these are stated up front:

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<sup>6</sup> <https://www.statssa.gov.za/publications/P03101/P031012024.pdf>

- Equitable allocation of Mux capacity , with preference given to the needs of public and community broadcasting services.
- Protection and viability of PBS and preference to broadcasters providing public interest content.
- Ensuring fair competition in the broadcasting sector and provide for a diverse range of public, commercial and community broadcasting services.
- Universal access to broadcasting services by all citizens irrespective of geographical location.
- Diversity of ownership and of content.
- Competition between signal distributors, or ECNS licensees.
- Effective stakeholder consultation and public participation.

### 3.3. PURPOSE OF THE REGULATIONS

3.3.1. SOS is largely in support of the framing of the purpose of the regulations although in our view they seem to be rather narrowly focused on application for spectrum/multiplex capacity, and they leave the matter of content on the channels entirely at the discretion of licensees. SOS is not an advocate of over regulation, however in line with the policy principles outlined above, and specifically “preference to broadcasters providing public interest content” and “with preference given to the needs of public and community broadcasting services.”, SOS urges ICASA to consider whether a 15% allocation for all the community broadcasters in the country makes sufficient provision for the growth and development of that sector.

3.3.2. It is our understanding that the allocation of 15% translates into 15% per province, or more properly per single frequency network Mux portion. So, there can be up to three community channels broadcasting in SD at 2Mbps in a provincial multiplex which is part of Mux 2, i.e. 9 provinces x 3 stations each = 27, assuming one SFN per province. SOS requests ICASA to clarify this in the final version of the regulations.

3.3.3. It is imperative that community television broadcasters are not restrained in any way from competing effectively on the DTT platform (whether this relates to providing content in HD or offering a diverse range of content).

This becomes even more important in the context of new distribution technologies such as 5G broadcasting over cellular networks which will offer consumers alternatives to the traditional broadcasting networks.

### 3.4. FRAMEWORK FOR DIGITAL TERRESTRIAL TELEVISION

- 3.4.1. SOS is in support of the adoption of the DVB-T2 standard and the MPEG-4 compression standard or any advanced compression standard, and in line with our proposal in 3.2. above the addition of DVB-S2 is specifically included.
- 3.4.2. SOS is in support of broadcasting in HD but allowing for community television broadcasters to continue to provide SD channels, without hampering their ability to provide HD channels by providing limited multiplex capacity.
- 3.4.3. SOS is in support of the use it or lose it principle, however we are of the view that 36 months may be a long time, and perhaps 18-24 months is a more reasonable time to allow licenses to hold onto Mux capacity without using it. This approach would optimise the use of the Mux. Moreover, in line with a public interest centred approach, it would enable a shorter turnaround time for citizens to gain access to diverse channels and content in reality and not only on paper.

### 3.5. MULTIPLEX ALLOCATION

- 3.5.1. SOS is delighted to see that ICASA agreed with the proposals made by SOS and others, including the SABC to allocate the SABC exclusive capacity on their Multiplexers. In line with our policy principles “Protection and Viability of Public Broadcasting Services (PBS) and preference to broadcasters providing public interest content” we support the decision to allocate two full Muxes to the SABC given the scope of their public service remit. We trust and believe that the SABC will make use of this capacity to deliver local public interest content of the highest calibre and in all twelve of South Africa’s official languages.

3.5.2. In line with our policy principle of “ensuring fair competition in the broadcasting sector and provide for a diverse range of public, commercial and community broadcasting services”, SOS therefore encourages ICASA to ensure that the allocation of 15% of Mux 2 to community television broadcasters indeed translates into capacity to distribute existing and future community television broadcasters in every province. At present there are more than five community TV broadcasters and SOS has argued above that even if they all elect to broadcast in Standard Definition (SD), they should not be constrained from providing their services in HD and from adding channels as and when their resources allow.

3.5.3. This allocation would also restrict e.tv from competing effectively if they are restricted to 85% of a Mux that would allow a very limited number of HD channels.

3.5.4. With respect to Mux 3, SOS is not clear on which “FTA television broadcasting service licensees” ICASA is referring to. Are these existing licensees with a current licence, or are they potential future licensees as provided for in paragraph 7 for Mux 4? Likewise, SOS is not aware of the status of Kwesé, given that they were granted a licence some time ago and haven’t commenced broadcasting, nor has SOS seen any gazette published by the ICASA granting them permission to extend their launch date on good cause shown, as is a standard licence term and condition with all individual broadcasting services licensees. SOS requests ICASA to please provide clarity on this matter.

3.5.5. With respect to Muxes 6 and 7 SOS is in support of making capacity available for test trials and research and innovation to promote the development of digital broadcasting. However, SOS urges ICASA not to allow this capacity to lie fallow while there is genuine demand for capacity by for example community TV broadcasters.

### 3.6. CHANNEL AUTHORISATION PROCEDURE



3.6.1. As was stated in 2.5 above SOS is concerned that the Draft DTT Regulations do not provide any clarity about the application of Local Television Content Regulations. This is not a call for ICASA to be overly prescriptive in defining the content to be provided by public, commercial and community broadcasters, but rather to prescribe enabling regulations that promote the growth of the sector and the flourishing of compelling local original content in a variety of genres, for all ages and in all twelve South African languages.

3.6.2. In so far as the administrative procedures, and the provision for public hearings to encourage public participation, SOS is full in support of the approach adopted by ICASA.

### 3.7. SIGNAL DISTRIBUTION OF THE DIGITAL TERRESTRIAL TELEVISION SERVICES

3.7.1. SOS is puzzled by the decision of ICASA in regulation 6(5) to intervene in the commercial operation of a licensee where that licensee has not secured the services of a licenced ECNS licensee and to “publish an Invitation to Apply to ECNS licensees, to apply for the provision of signal distribution services to the terrestrial television broadcasting service licensee”.

3.7.2. Apart from not wanting a licensee to fail to launch, SOS is hard pressed to understand the logic and motivation behind such a move. This has never been an approach ICASA has adopted before, and without providing any rationale for such a decision in the Explanatory Memorandum.

### 3.8. MULTIPLEX OPERATOR FOR THE DIGITAL TERRESTRIAL TELEVISION.

3.8.1. SOS followed the arguments and submission made regarding the need for a Multiplex Operator during the public hearings on the Discussion Document. However, these Draft DTT Regulations appear to create a new category of license that is not provided for in the Electronic Communications Act, unless the intention is for this to be an IECNS, in which a ministerial policy directive would still be required to initiate such a process.

3.8.2. Our understanding is that the multiplexing function is undertaken as part of the signal distribution process (“terrestrial dissemination”), and the “bundling” can be done either on the premises of the broadcaster before the data stream leaves their premises or on the premises of the signal distribution operator (IECNS licensee). Perhaps ICASA can further explain the rationale behind creating this separate license category.

3.8.3. In line with the policy principle of Competition between signal distributors, or ECNS licensees, and ICASA’s recent review of the Signal Distribution market, SOS would like to see the licensing of a number of competing providers, giving licensees choice of signal distribution providers who compete on price and service offerings to the ultimate benefit of the broadcasters as consumers.

3.8.4. SOS was rather surprised to see a reference to mobile television, given that this technology never launched in South Africa and indeed ICASA reassigned the frequencies to DTT. Perhaps ICASA will provide further clarity on the reason for including this requirement since no explanation is provided for such a decision in the Explanatory Memorandum.

### 3.9. GENERAL OBLIGATIONS

3.10. SOS would like to encourage ICASA to consider amending the regulations on the EPG, to promote the prominence and discoverability of public interest content and the channels of the public service broadcaster the

SABC. Too often these channels are relegated to high numbers on the EPG, or not adjacent to popular channels.

3.11. A multi-channel broadcasting service is not defined in the Draft DTT Regulations, although the term is self-explanatory. SOS understands this to mean that “terrestrial television broadcasting service licensees”, as defined in the 2012 Regulations, and licensed to provide a single channel are now entitled to provide several “unlicensed channels”, subject to receiving authorisation for each of those channels under Regulation 5.

### 3.12. PENALTIES

3.12.1. SOS has no objection to the imposition of penalties that will ensure compliance with the regulations to the ultimate benefit of citizens.

### CONCLUSION:

SOS thanks ICASA for the opportunity to make this submission and is keen to make oral submissions should ICASA decide to host public engagements on this process.



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Uyanda Siyotula

National Coordinator

SOS Support Public Broadcasting Coalition