



Suite No.2, Art Centre, 22 6th St, Parkhurst, Johannesburg, 2193

Tel: +27 11 78 1278 | Email: info@mma.org.za www.mediamonitoringafrica.org

Attn: Ms Pumela Cokie

ICASA

Draft DTT Regs 2025

Email: PCokie@icasa.org.za

14 October 2025

Dear Ms Cokie

MMA: ADDITIONAL SUBMISSIONS ON THE DRAFT DIGITAL TERRESTRIAL TELEVISION REGULATIONS 2025

1. INTRODUCTION

- 1.1 On 4 July 2025 ICASA published its Draft Digital Terrestrial Television Regulations, 2025 in Notice 3355 published in the government Gazette number 52946 (the Draft DTT Regs) and invited public comment thereon within 30 (thirty) working days.
- 1.2 On 7 August 2025 Media Monitoring Africa (MMA) made detailed written submissions on the Draft DDT Regs and also made an oral presentation at the hearings on the Draft DTT Regs held on 29 September 2025.
- 1.3 The Independent Communications Authority of South Africa (ICASA) has requested MMA to make certain additional submissions on the Draft DTT Regs by today, 14 October 2025 (the Request). MMA thanks ICASA for the opportunity to make these written submissions on its Request.

2. AD QUESTIONS 1, 2 AND 3 REGARDING THE ROLE OF THE MULTIPLEXER

- 2.1 In Question 1 of the Request, ICASA has asked MMA to explain its understanding of the Multiplexer and its role, including the benefits thereof. In this regard:

- 2.1.1 MMA sees the Multiplexer role as being a purely technical one.

- 2.1.2 A definition of the noun “multiplex” reads “a system that communicated two or more signal over a common channel”¹.
- 2.1.3 Essentially the role of the Multiplexer is to take various different digital signals from their source/s (one of more channels of a broadcaster and or the channel/s of one or more broadcasters) and combine/“multiplex” them into a single data stream or channel.
- 2.1.4 MMA submits that multiplexing is the process that occurs after a broadcaster’s channel/service, as the case may be, is produced and before it is distributed, along with other channels, over the DTT network to audiences of DTT services.
- 2.2 In Question 2 of the Request, ICASA has asked MMA to opine on who should hold the radio frequency spectrum licence, having regard to section 31 and 63 of the Electronic Communications Act, 2005 (the ECA). In this regard:
- 2.2.1 MMA reiterates that it is of the respectful view that section 7 of the Draft DTT Regs is extremely poorly drafted and must be corrected/amended prior to finalisation.
- 2.2.2 First, the reference in s7(3) to an “electronic communications service network” ought to be corrected to read “electronic communications network service” (ECNS). However, MMA agrees that it is correct that it a multiplexer requires an ECNS licence and ought to be an ECNS licensee because of the nature of the multiplexing service provided by the multiplexer ie it is an ECNS licensee.
- 2.2.3 Second MMA reiterates that the reference in s7(4) to a “Provincial DTT Multiplexer” ought to be deleted as no provision is made elsewhere in the Draft DTT Regs for a provincial service.
- 2.2.4 Third, MMA is of the view that the radio frequency spectrum licence that is used to distribute the DTT signal must be that of the broadcasters. This is so for a number of reasons:
- 2.2.4.1 Different broadcasters have different licence terms. To take Multiplex 2 as an example, which is proposed to host commercial (etv) and community television broadcasting licensees.
- 2.2.4.2 What period of radio frequency spectrum licence would the multiplexer have in such a situation?
- 2.2.4.3 It is clear that the multiplexer could not, for example, continue to distribute the signal of a community broadcasting service after the expiry of its licence service and spectrum

¹ <https://www.vocabulary.com/dictionary/multiplex> [Last accessed 14 October 2025]

licences (which run concurrently as a matter of practice) and so its ability to use any spectrum assigned to it would be dependent on the licences of its client broadcasters in any event.

2.2.4.4 Note further that if the multiplexer were to hold the spectrum licence, then this would be at odds with the requirements of section 63 (3) of the ECA which provides that “A broadcasting service licensee may not provide a broadcasting service utilising any portion of the radio frequency spectrum without first obtaining a radio frequency spectrum licence in terms of this Act”.

2.2.4.5 The mechanics of the ECA are clear – the ECNS licensee distributes the signal, that is, provides signal distribution or ECNS services to a broadcaster utilising the frequencies that the broadcaster is licensed to use in terms of its spectrum licence, issued by ICASA concurrently with its broadcasting service licence.

2.3 In Question 3 of the Request, ICASA has asked MMA to opine on the distinctions between the Multiplex Operator and the signal distributor. In this regard:

2.3.1 MMA is of the view that both the signal distributor and the multiplexer will require ECNS licences if the multiplexer and signal distributor are, in any given case, two different entities.

2.3.2 However, MMA is of the view, that it is perfectly possible for a licensed ECNS signal distributor to also play the role and carry out the functions of multiplexer and can do so making use of its technology neutral ECNS licence.

2.3.3 There is no constraint, from a technology and regulatory point of view, to a signal distribution licensee also carrying out the Multiplex functions in relation to DTT.

2.3.4 Consequently, MMA is of the view that all Individual ECNS (I-ECNS) licensees have the necessary licenses to operate multiplexes making use of the broadcasters’ assigned radio frequency spectrum to do so.

3. AD QUESTION 4 REGARDING THE CARRIAGE OF COMMUNITY TELEVISION SERVICES MULTIPLEX 2

3.1 At the outset, MMA notes that this question is in fact directed to ACT-SA and not to it.

3.2 Be that as it may, MMA reiterates its concern that community television broadcasting services are required to not exceed 15% of Multiplex 2 in terms of s4(3) of the Draft DTT Regs.

- 3.3 MMA reiterates that no provision is being made for future community television broadcasting services as is being done for public and commercial television services in terms of ss4(1)(b), 4(2)(b) and 4(5) of the Draft DTT Regs and registers its concern, again, at this.
- 3.4 We note ICASA queries whether or not the community broadcasting sector can carry the costs of multiplex capacity but note that as the constitutionally mandated regulator of broadcasting, it is ICASA's role to ensure that signal distribution/multiplexing is affordable for the community broadcasting sector. In this regard, MMA is of the view that ICASA cannot regulate in silos and the process of promulgating these Draft DDT Regs must be coordinated with the process of promulgating ICASA's Draft Signal Distribution Regulations, a separate process but with obvious overlapping implications, that is currently underway.
4. AD QUESTION 5: THE COMMENCEMENT PERIOD FOR NEW/EXISTING BROADCASTERS TO PROVIDE DTT SERVICES
- 4.1 MMA notes that ICASA queries why we are suggesting that a 24-month period, instead of the 36- month period referred to in s3(3) of the Draft DTT regs is appropriate.
- 4.2 MMA reiterates that we are of the view that a 24-month period to come into operation, in accordance with existing s5(1)(b) and (c) of the Standard Terms and Conditions for Individual Licensees Regulations, 2010, as amended, is appropriate.
- 4.3 In this regard we note that DTT is concerned entirely with the technical process of signal distribution and changes nothing, inherently, in the process and activity of broadcasting *per se*. The activities of the broadcaster in producing content not in any way changed by whether or not the signals that are distributed to the public are analogue or digital.
- 4.4 Consequently, MMA can see no reason why broadcasters, whether incumbent or new licensees, should be able to depart from their ordinary regulatory obligation to commence operations within the usual 24 month period or, on the basis of the "use it or lose it" principle, face the possibility that ICASA could reallocate the unused max capacity to other existing and/or new licensees to promote one of the key objectives of the ECA namely "ensuring efficient use of the radio frequency spectrum" in terms of s2(e) of the ECA.
- 4.5 However, we understand that broadcasters have raised the difficulty of securing channel rights in good time as result of prolonged contractual and other negotiations. MMA is not unsympathetic to this and would not be unhappy if ICASA were to provide in the final DTT Regulations that the ordinary period to commence operations is 24 months but that an additional 12 months could be granted by ICASA in the public interest and upon application and motivated for fully by a broadcaster.

5. AD QUESTION 6: WHETHER OR NOT THE EXISTING SOUTH AFRICAN TELEVISION CONTENT REGULATIONS WOULD SUFFICE FOR THE PURPOSES OF DTT LOCAL CONTENT REGULATION

- 5.1 MMA is of the view that the existing SA Television Content Regulations² do not make sufficient provision for the DTT environment.
- 5.2 In particular, the SA Television Content Regs make no reference to a body such as the Digital Television Content Advisory Group (DTCAG) which the Digital Migration Regulations, 2012 required to be established with the aim of, *inter alia*, advising ICASA on the most effective way to ensure “monitoring and compliance with content obligations”.
- 5.3 ICASA is well aware of its own inability to monitor content-related compliance by the public broadcaster, the SABC’s, existing analogue television channels, given the enormous complexity of the SA Television Content Regs with its legion of format factors for a range of programming related issues such as repeats, genres, languages, commissioning practices etc.
- 5.4 It is a source of considerable and ongoing concern to MMA that in the 20 years that the SABC has been subject to local content and independent production quotas, in terms of various local content regulations, ICASA has managed to compile only one so-called Annual Compliance Report on SABC 1, 2 and 3³ and it was unable to reach any conclusive view⁴ about SABC compliance due to a lack of monitoring capability on ICASA’s part.
- 5.5 It is clear that the existing SA Television Content Regs are not fit for purpose in the analogue context given ICASA’s inability to monitor compliance with its provisions. Consequently, MMA is of the view that the existing SA Television Content Regs would entirely fail at constituting a coherent regulatory framework for local content and independent production obligations and, particularly, for ICASA’s compliance with its own statutory obligation to produce annual compliance reports on, *inter alia*, television broadcasters’ compliance with said local content and independent production obligations.
- 5.6 MMA is also of the view that the functions and purpose of the DTCAG continue to be pressing and necessary as none of its recommendations has been adopted by ICASA and the television and independent production sectors continue to highlight the complexity and essential and unworkability of the rubric provided for in existing SA TV Content Regulations.

² Notice 346, in Government Gazette No. 39844 dated 23 March 2016.

³ www.icasa.org.za/uploads/files/SABC-Compliance-Report.pdf

⁴ *Ibid.* At pg 44

- 5.7 MMA strongly submits that ICASA develop an entirely new set of SA TV Content Regulations to repeal and replace the existing SA TV Content Regulations, taking into account the recommendations of the DTCAG and ensuring a simple, monitorable set of local content and independent production quotas/monetary contributions are provided for, tailored to the far more complex multi-channel DTT environment.
6. Please do not hesitate to contact the writer should you have any queries or require any further information.

Thank you

Yours Sincerely

A handwritten signature in black ink, appearing to read 'W Bird', written over a horizontal line.

William Bird

Director