**Regulatory impact assessment OF THE ICASA MUST CARRY REGULATIONS (“MUST CARRY”).**

Broadcast Service Licensees Questionnaire.

Contact details OF THE respondent

Please complete the table below. Where there is more than one contact person please include the full details of the additional contact person/s in the format provided below.

|  |  |
| --- | --- |
| Prefix (Mr., Mrs., MS, Prof, etc.) |  |
| First Name |  |
| Last Name |  |
| Designation |  |
| Name of Entity |  |
| Department/ Division |  |
| Telephone (Switchboard) |  |
| Telephone (Direct line) |  |
| Mobile |  |
| E-mail |  |

**Background**

The Independent Communications Authority of South Africa (“the Authority”) is conducting a Regulatory Impact Assessment (“RIA”) on the Must Carry Regulations published in Government Gazette No. 31500 of 10 October 2008.[[1]](#footnote-1)

The Must Carry Regulations are meant to regulate the extent to which the Subscription Broadcasting Services (“SBS”) must carry the television programmes provided by the Public Broadcast Service Licensee (“PBS”); to provide the terms and conditions under which the SBS licensees will carry the television programmes of the PBS licensee; determine transparent, equitable and reasonable terms and conditions under which the PBS licensee may offer its television programmes to the SBS licensees; and provide exemptions for certain SBS licensees from compliance with these regulations.

The Authority seeks to obtain information and views on the effectiveness and the impact of the Must Carry Regulations from stakeholders.

The Authority therefore requests you to please complete a questionnaire as accurately as possible. When providing written responses, as well as supporting evidence and data, please indicate clearly to which question the information pertains.

Should a broadcast licensee be of the view that the information submitted is confidential, the licensee can claim confidentiality over such information. The licensee must clearly mark the appropriate sections as confidential and further provide a written explanation in terms of section 4D (1) (b) of the ICASA Act explaining why the information is confidential. The Authority will respond within fourteen (14) days of receiving a request for confidentiality to indicate whether or not the request for confidentiality has been granted.

Should there be any questions or further clarification required, kindly address your questions to **shlongwane@icasa.org.za** or **egopane@icasa.org.za****.**

Please complete and submit data in terms of the questionnaire within twenty-two (22) working days from the date of this questionnaire being published on the ICASA website.

Thank you in advance for taking time to complete a questionnaire.

**Section 1. Objective of Must Carry**

The Must Carry obligation is driven by a policy goal to ensure that PBS television programming is available to all citizens, targeting those citizens that use subscription services as their preferred means of access to television. It is a part of universal service obligations imposed on subscription services.

Please answer the following questions:

1. Are you affected by the Must Carry Regulations? If so, How?
2. What do you understand to be the objective of the Must Carry Obligation?
3. Do you think the Must Carry Regulations have achieved the intended objective?
4. To what extent do you think the Must Carry Regulations have helped to achieve universal access to the PBS television programmes?
5. What do you consider to be the advantages and disadvantages of the Must Carry Regulations?
6. Other than the Must Carry Regulations, what mechanisms would you recommend to facilitate universal access to the PBS television programmes?
7. What will be the impact of repealing the Must Carry Regulations?

**Section 2. Must Offer obligation**

Regulation 6(1) provides that *the PBS licensee must offer its television programmes, at no cost, to the SBS licensees upon request from the SBS licensees.* The imposition of the must offer obligation is vital to ensure that the Must Carry process does not have constraints that will frustrate the intentions and objectives of the regulation.

Please answer the following questions:

1. Do you think there is any competition effect or impact as a result of the requirement on the PBS licensee to offer its programmes to the SBS licensees for free? If so, how?
2. Do you think the PBS licensee has benefitted from offering its television programmes, for re-transmission, to the SBS licensees? Please elaborate.
3. Should the must offer obligation include the commercial television programmes of the PBS licensee?

**Section 3. Must Carry obligation**

Regulation 4(1) provides that *all SBS licensees must carry the PBS licensee television programmes designated as must carry and as part of their service offerings. Regulation 7(2) provides that SBS licensees are required to transmit simultaneously and without any alteration, the entire television programmes of the PBS licensee.*

Please answer the following questions:

1. Do you think there is any competition effect or impact as a result of the requirement on the SBS licensees to carry the PBS channels for free? If so, how?
2. Do you think the SBS licensees have benefited from carrying the PBS television programmes? Please elaborate.

**Section 4. Transmission of Television Programmes**

Regulation 7 (1) provides that *the PBS licensee bears the costs of transmission of the broadcast signal to the SBS licensee. The PBS Licensee must deliver its signal to the SBS Licensee in an unencoded and compatible format. Regulation 4 (4) provides that the SBS licensee must bear the costs of carriage of the television programmes of the PBS licensee on its distribution platform in compliance with the Must Carry Regulations.*

Please answer the following questions:

1. Should the PBS licensee pay the SBS licensees as part of the Must Carry agreement?
2. Should the SBS licensees pay the PBS licensee as part of the Must Carry agreement?
3. What do you consider to be fair and reasonable terms of payment for the Must Carry agreement?

**Section 5. Technology**

Digital migration is the switch or migration from analogue to digital signals for TV and radio. The digital migration will lead to more channels, more programmes and improved access to broadcasting services.

1. Will the Must Carry regulations still be necessary to achieve universal access to the PBS television programmes in the digital television environment?
1. Government Gazette No. 31500 of 10 0ctober 2008 Vol no. 520 [↑](#footnote-ref-1)