



15 December 2020

ATTENTION: Ms Violet Molete

Block B, Eco Park

350 Witch-Hazel Avenue, Centurion

By email: Vmolete@icasa.org.za / Pcokie@icasa.rg.za

Dear Ms Molete

Re: Consumer Advisory Panel Comments on ICASA Second Draft Sports Regulations, November 2020

It our pleasure to submit comments on the above-mentioned Draft Regulations to the Independent Communications Authority of South Africa's (ICASA) as Consumer Advisory Panel (CAP). Please find attached CAP's submission in Word format as requested.

We are looking forward to engaging further with ICASA during this process.

Yours faithfully,

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Noxolo Gogo (APR)

CAP CHAIRPERSON



**CONSUMER ADVISORY PANEL
COMMENTS ON THE INDEPENDENT COMMUNICATIONS AUTHORITY
DRAFT SPORTS REGULATIONS**

1. INTRODUCTION

- 1) The Independent Communications Authority of South Africa (ICASA) published its second Draft Sports Regulations Gazette No. 43877 on 05 November 2020 for public comment (hereinafter, "Draft Regulations").
- 2) The Consumer Advisory Panel (CAP) was established by ICASA in terms of section 71 of the Electronic Communications Act of 2005. The role and functions of CAP are governed by the Consumer Advisory Panel Regulations, 2017, as amended.
- 3) The main role of CAP is to represent a consumer segment and create an enabling environment that allows regulation of the electronic communications, broadcasting or postal services, and consumer insight which will enhance ICASA's consumer protection mandate.
- 4) CAP's response to ICASA's Draft Sports Regulations is informed by Regulation 4.2 and 4.5 of the CAP Regulations, 2017.



5) CAP's function in terms of regulation 4.2 is to provide a consumer perspective through commentary on relevant regulations and regulatory projects published for public comment. Furthermore, regulation 4.5 requires CAP to comment on draft regulations impacting consumers, specifically and especially vulnerable groups such as the elderly, persons with disabilities, and those living in underserved areas.

In this regard, we note the Authority's acknowledgement of inequalities as reflected in the 12.6% of South Africans who use subscription television services relative to the 82% television penetration percentage. The majority of vulnerable groups, namely the elderly, persons with disabilities, and those living in underserved areas, rely on both radio and television services offered by free-to-air broadcasters to watch sports content.

6) CAP therefore welcomes the opportunity to comment on the Draft Regulations and wishes to make an oral presentation before ICASA, should the opportunity be available.

2. GENERAL COMMENTS

2.1 The Regulatory Environment as a Context



CAP appreciates the balancing act between the sale of broadcasting rights as a source of revenue for the sports industry against access to free-to-air broadcasting services, which ICASA must consider. In addition to this balancing act, we advise that the following developments are also taken into consideration as they will have an impact on the objectives, implementation, and compliance thereof by the SABC.

CAP would like the Draft Regulations to be considered against recent developments that may impact on the implementation of the proposed Regulations once they have been finalised. We are concerned about the state of the South African Broadcasting Corporation (SABC) amid planned retrenchments and continued financial challenges. These intertwined factors not only pose a risk to access to free-to-air broadcasting services on radio and television for consumers but also create uncertainty around the coverage of live and delayed live sporting events for consumers.

2.2 Negative Impact of COVID-19 on the South African Sports Industry

Many sporting federations were negatively impacted by the state of disaster declared due to COVID-19 and the subsequent initial 21 days national lockdown from 26 March 2020. Many sports codes only resumed under Level 3 restrictions. Despite the COVID-19 Relief Fund for the sports sector made available through the Department of Sports, Arts and Culture, many of the sports federations are financially constrained. We anticipate that revenue



from the sale of broadcasting rights as well as sponsors for the sports industry in general, will continue to be restrained in the short- to medium-term.

2.3 Comments on the Draft Regulations

2.3.1 Listed National Sporting Events

CAP welcomes the Listed National Sporting Events (Regulation 5) which has retained the Paralympics. We further welcome the inclusion of the Netball World Cup, FIFA Women's World Cup, and the International Amateur Federation World Athletics.

2.3.2 Amendment of Regulation 2 of the 2020 Regulations

We support the inclusion of "**as identified in the public interest**" as we agree with the Authority on the balancing act between commercial viability and the public access to the broadcasting of national sporting events.

CAP proposes that, in order to avoid any doubt, the above inclusion is worded as follows:

"As determined to be in the public interest by the Authority from time to time" consistent with the wording of Regulation 4(1) of the Sports Regulations of 2010.

2.3.3 Gaps that the Draft Regulations Do Not Address



CAP has noted with concern that the Draft Regulations do not deal with the following aspects:

- **Access issues in sports broadcasting for persons with disabilities:** The current Draft Regulations on the Code on Persons with Disabilities under review does not incorporate access issues in sports broadcasting for persons with disabilities. This should be rectified as the Draft Code on Persons with Disabilities only refers to the accessibility of video (delayed) content and no targets are set for live action.
- **Mandating broadcasters to also promote broadcasts of smaller sporting codes and disability sports:** In the current Draft Regulations, it states that sports sponsorship and the flighting of advertisement during sports broadcasts should be managed on a fair competition and contractual basis. CAP proposes that the Authority considers mandating broadcasters to also promote broadcasts of smaller sporting codes and disability sports through a fair regulation of sponsorship and advertising of sport broadcasts.
- **The awarding of stadium- or event-specific broadcast licenses for the specific use of audio describers:** Lastly, the Draft Regulations do not include any provision for the awarding of stadium- or event-specific broadcast licenses for the specific use of audio describers for blind and partially sighted consumers or attendees. CAP recommends that the authority establishes a special category of sports broadcasting licenses



which are stadium- or event-based for the purpose of accessibility to these events for attendees with disabilities. Broadcasters that have rights to the sporting code can access this feed on commercial terms to make their own broadcasts accessible to persons with disabilities if they so wish.

4. CONCLUSION

CAP welcomes the opportunity to contribute to the revision of the 2010 Sports Broadcasting Regulations.

Noxolo Gogo (APR)

Chairperson: Consumer Advisory Panel