



**By email only**

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Independent Communications Authority of South Africa (ICASA)  
Block B, 350 Witch-Hazel Avenue  
Eco Point Office Park  
Centurion

**For the attention of:** Violet Molete

Zurich, 4 October 2019

**Re: Inquiry into subscription television broadcasting services**

Dear Ms Violet Molete

We write with regard to the Draft Findings Document (dated 12 April 2019) prepared by the Independent Communications Authority of South Africa (“**ICASA**”) following its inquiry into subscription television broadcasting services in South Africa (the “**Draft Findings Document**”).

On behalf of Fédération Internationale de Football Association (“**FIFA**”), we would like to take this opportunity to present our views on the Draft Findings Document including the proposed regulatory responses contained therein. FIFA acknowledges the importance of dialogue and consultation procedures in shaping broadcasting policy in national territories – in this case the future policy concerning subscription television broadcasting services in South Africa. We therefore hope that our views can contribute to the report of ICASA resulting in the adoption of an approach that balances both the interests of all relevant stakeholders with the legitimate aim of making premium sport events accessible to larger audiences.

Prior to the merits of our contribution, we would like to take the opportunity to provide you with some information on FIFA including an overview of our general policy on the broadcasting of our events and investments into football.

In accordance with its Statutes, FIFA’s objectives as football’s world governing body are:

- to improve the game of football constantly and promote it globally in light of its unifying, educational, cultural and humanitarian values, particularly through youth and development programmes;
- to organise its own international competitions;

- to draw up regulations and provisions and ensure their enforcement;
- to control every type of Association Football by taking appropriate steps to prevent infringements of the Statutes, regulations or decisions of FIFA or of the Laws of the Game;
- to use its efforts to ensure that the game of football is available to and resourced for all who wish to participate, regardless of gender or age;
- to promote the development of women's football and the full participation of women at all levels of football governance; and
- to promote integrity, ethics and fair play with a view to preventing all methods or practices, such as corruption, doping or match manipulation, which might jeopardise the integrity of matches, competitions, players, officials and member associations or give rise to abuse of association football.

In this letter, we aim to demonstrate to ICASA that FIFA itself is best placed to determine the optimal means by which to commercialise its media rights so that it can then deliver on each of the above objectives for the benefit of all stakeholders.

## **INVESTMENT BACK INTO FOOTBALL**

FIFA has a clearly established process of selling its media rights, both in South Africa and throughout the world, in a way that always seeks to strike a balance between generating strong audiences (primarily via free to air distribution), while at the same time delivering robust revenues. This strategy is fundamental for the sustainable financial platform of the sport in general, as well as providing the cornerstone of the financial redistribution and solidarity mechanisms within the sport itself.

FIFA relies, as its primary source of revenue, on the sale of television broadcasting, marketing and licensing rights, which accounted for 86% of the overall revenue generated in the 2017 financial year and were mainly related to the FIFA World Cup™. Over the full four-year cycle 2015-2018, 83% of FIFA's revenues were directly linked to the FIFA World Cup™. These revenues are invested directly back into football and in the period 2015-2018 alone, FIFA invested USD 1.67 billion into football development and education projects around the world. In 2018, the FIFA Congress decided to increase the investment in the FIFA Forward program for the 2019-2022 cycle to USD 1.746 billion, which translates into an investment of USD 6,000,000 per member association for this four-year cycle to support operational needs and development projects.

With regards to South Africa specifically, project funding from 2016-2022 into the South African Football Association currently stands at USD 4.25 million, with the following projects on-going:

- construction of an artificial turf pitch at the SAFA National Technical Centre;
- construction of changing rooms, ablution facilities and concrete seating stands at the SAFA National Technical Centre;
- support for Women's Provincial and National Championships; and

- talent Identification (Women's Football).

## **CREATION OF VALUE**

For the 2015-2018 FIFA World Cup cycle in Sub-Saharan Africa, FIFA was able to double the media rights revenues from the previous cycle with the majority of value being derived from South Africa via a combination of broadcast partners including SABC, MultiChoice as well as various other new entrants.

This increase in value was due to a number of factors but most importantly, was underpinned by FIFA's ability to directly control the commercial strategy, timing and structure of the invitation to tender (ITT) which allowed for the rights to be placed across differing media and forms of distribution whilst reflecting the specific demands of the market at that time.

The ability to respond to the prevailing market conditions and be able to employ a flexible approach to the commercialisation of FIFA's media rights is critical to creating value from FIFA's events, in particular the FIFA World Cup™.

A core part of this 'value chain' for prospective partners is:

- long term visibility and planning allowing media platforms to monetise their investment;
- development and retention of audiences;
- the ability to drive subscriptions and new products/offers;
- delivering of consistent value, brand association to FIFA events and a breadth of inventory to commercial partners;
- ability for partners to control all rights, particularly for pay TV who are best placed from a technological, content and product perspective to exploit such rights;
- the differentiation of products and services; and
- premium investment in sports rights creates exceptional commitment to innovation, production and promotion by the respective rights holder(s).

If FIFA and other rights holders are restricted in their ability to determine unilaterally when, how, to whom and on what basis it may commercialise its rights, such threatens, to the detriment of all stakeholders, one's ability to create value, thereby undermining the various benefits which are derived from of the abovementioned value chain.

## **FIFA'S COMMITMENT TO FREE TO AIR COVERAGE**

It is important to note that FIFA already has a long and notable record of ensuring free-to-air coverage of the FIFA World Cup™ in South Africa, including all 64 matches of the 2010 and 2014 editions of the FIFA World Cup™ as well as the substantial majority of the 2018 FIFA World Cup™. Furthermore, with

respect to each of FIFA's other tournaments, FIFA always requires certain free-to-air coverage in territories where a local team is participating. Thus, in FIFA's opinion, the goal of legislation to establish public free to air access to sporting events of major importance to society is already being reached without resorting to far-reaching additional regulation.

FIFA already remains committed to making a wide range of its matches publicly available by means of free-to-air. By way of example, every media rights tender process for the FIFA World Cup™ includes a commitment to ensure that a minimum of 22 matches are broadcast on a free to air platform achieving nationwide coverage. This obligation also includes each match of the participating country, as well as other key matches of interest, such as the opening match, each semi-final and the final.

To underscore FIFA's commitment in this area in South Africa, for the 2018 FIFA World Cup™, FIFA's free to air broadcast partner, SABC, was able to deliver an exceptional free to air broadcast platform for fans, including:

- 44 matches shown live and in full on free to air (70% of the total number of matches);
- average live audience per match 2.4 million;
- highest live audience 4.6 million (the final);
- 64% of the total audience came from linear free to air TV consumption; and
- highlights of every match were broadcast free to air.

It is clear that, with respect to the FIFA World Cup, there already exists a very healthy free to air audience in place in South Africa working alongside the subscription television market.

### **FIFA INVITATION TO TENDER (ITT) PROCESS**

By way of further context and to provide ICASA with comfort as to the format and transparency of FIFA's sales processes, all of FIFA's tenders are conducted using a consistent methodology and approach which:

- allows for a fair, open and transparent sales process, inviting all broadcasters (including new entrants) with the opportunity to bid;
- proposes a set of rights and packages which reflect the specific broadcast landscape and means of consumption, programming and financial capacity of media platforms, and audience habits in each market at that time;
- offers the ability for rights to be acquired on an exclusive or non-exclusive basis by one or more broadcasters;
- allows for rights to be exploited on a multi-platform basis;

- enables bidders to have the flexibility to submit bids based on their specific means of distribution e.g. OTT, digital, Pay TV, DTT etc; and
- does not allow for automatic contractual renewals or rights of first refusal.

The environment created by such a tender process is both competitive and fair and, as outlined above, has led to an increase in revenues which are ultimately fed back into the sport. However, very importantly, there is no enforced framework requiring that rights be offered in this way or under particular constraints, such as the compulsory separating of rights or the unbundling of rights by platform that are suggested in the Draft Findings Document. Rather FIFA is able to adapt the rights on offer to suit the specificities of the individual market in order to derive the best outcome for all stakeholders. In taking these factors into account, we believe that FIFA already sells the media rights to its events in a manner which addresses the concerns of ICASA around access to premium sports rights.

FIFA welcomes the opportunity to engage with new partners, but needs to be able to do so in an unencumbered way and to determine if a particular entity, such as a new OTT service or FTA platform, is, in fact, best placed to address the needs of a certain FIFA event and its consumers. In order to allow for FIFA to deliver its various objectives, it is fundamental that FIFA is able to choose a suitable broadcast partner on which FIFA can rely:

- to deliver the highest quality of broadcast production and coverage;
- to deliver the greatest level of audience penetration;
- to have appropriate financial resources and payment security;
- to respect the FIFA brand;
- to deliver diverse means of accessing FIFA content; and
- to uphold and protect the value of FIFA's marketing programme.

The recommendations put forward in the Draft Findings Document, whilst seeking to increase competition in the market, ultimately serve to limit rights holders in their ability to place rights appropriately and deliver their varying mission objectives.

## **ADVERSE EFFECTS**

It is our firm belief that, should the recommendations put forward in the Draft Findings Document be enacted into local law, such would have a substantive adverse effect on the willingness and capability of existing subscription platforms to continue to invest in both international and local sport across grass roots and elite level competition. This will mean that the quality, frequency and experience of watching premium live sport will notably diminish for South African audiences. Taking this to its natural conclusion, we are fearful that the introduction of such legislation could lead to sport in South Africa, and the participation, success and development therein, suffering in the long term.

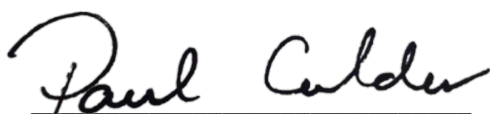
We also question whether the existing media market in South Africa is even set up in a way that it is able to accommodate the proposed regulatory measures contained in the Draft Findings Document from both a programming capacity (note that, for the FIFA World Cup 2026, the number of matches will increase from 64 to 80) and a financial perspective. Critically, it remains undefined how such new proposals will be implemented.

Finally, we believe that the imposition of the proposed regulatory measures contained in the Draft Findings Document could vastly reduce international investment into this sector and dilute the merit of new platforms and technology entering into the media market. Such would have substantive negative repercussions on the consumer experience as well as negative economic implications more generally.

As a concluding remark, we would like to thank you for considering our response to your inquiry and remain available to discuss any of the above-mentioned elements in further detail should you deem it appropriate.

Yours sincerely

**FÉDÉRATION INTERNATIONALE  
DE FOOTBALL ASSOCIATION**



Paul Calder  
Head of Sales and Distribution