



Written representation on the Independent Communications Authority of South Africa's revised Draft Digital Terrestrial Television Regulations, Notice No. 532, Government Gazette No. 35508, 10 July 2012.

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1. Introduction

The following is a written response to Notice No. 532, Government Gazette No. 35508, 10 July 2012, published by the Independent Communications Authority of South Africa ('ICASA') and entitled 'Explanatory Memorandum on the Decision to Amend the Draft Digital Terrestrial Television Regulations'.

The Chair of Media and the Information Society is located in the Highway Africa (HA) Centre, located in the School of Journalism and Media Studies (JMS). HA was formed in 1997. Its vision is of an Africa that is at the centre of the information society, rather than on its margins. To this end, HA works in the areas of teaching, research and community engagement to advance democracy and development through the understanding and use of appropriate media technologies. HA runs an annual conference on journalism, citizen journalism and new media, which has become the largest annual gathering of African journalists in the world.

In 2009, HA established a Chair in Media and the Information Society. The Chair, which is currently held by Prof. Jane Duncan, undertakes research, teaching and outreach programmes targeting journalism students, journalists and civil society. The Chair is an intervention to enable African journalists to engage critically with issues around the information society. The Chair also undertakes academic work in the School of JMS, by supervising postgraduate students and teaching a Master's level course in Media Policy and Institutions. The Chair also produces accredited publications, disseminates work through the media and is involved in policy initiatives as part of community engagement. The Chair also coordinates the Digital Citizen's Indaba (DCI).

2. General observations on South Africa's television system

At the outset of South African broadcasting's transition, the liberation movement argued for the establishment of three tiers of broadcasting: commercial, community and public service. This agreement was concretised in the Independent Broadcasting Authority Act and the 1998 White Paper on Broadcasting Policy. The three tiers of broadcasting model, which applies to television too, is a form of structural regulation, designed to ensure pluralism and diversity are built into the media system where the existence of commercial and non-commercial services, local, regional and national, are guaranteed in policy and law. Such guarantees are meant to ensure that no one tier of broadcasting dominates, thereby reducing diversity.

However, in reality, owing to the lack of policy and financial support for public service and community television, South Africa's media landscape has become characterised by the dominance of commercial television within the three tiers of broadcasting, with even community and public service television being forced to follow commercial imperatives as subsidiary elements. These developments led Robert Horwitz to caution in 2001 about the dangers of what he termed a 'commercialising juggernaut' eclipsing the public service nature

of the South African media system, which he maintained was necessary to redress the legacies of the country's apartheid past (Horwitz 2001: 137–177).

The effect of these developments is that the South African television system has become characterised by uneven development. Those who participate in the economic mainstream have access to a plurality of television services and to viewing options that expand all the time as the multi-channel environment opens up. But for the growing layer of working class, underemployed and unemployed South Africans, the majority of which are youth, their viewing options remain limited (Duncan and Glenn 2010: 39).

According to the Living Standards Measurement (LSM) from June 2010, LSM 1 and 2, which according to the SA Advertising Research Foundation comprise 9.3% of the population, rely largely on the radio services of the South African Broadcasting Corporation (SABC). LSM 3 and 4, which comprise 21.7% of the population, rely on the SABC radio and television, with some relying on the private television station e.tv (although e.tv's target market is LSM 5.5). It is only LSM 5 and 6, which comprise 36.1% of the population, that begin to enjoy a range of media products, including SABC, e.tv, daily and weekly newspapers, magazines and outdoor media. LSM 7 and above, which comprise 27.5 per cent of the population, command the lion's share of media.

In fact, most commercial media (including the tabloids) tend not to identify LSM 4 and below, or 36.4 per cent of the population, as being part of their target audiences. Television and print media (including the tabloids) prioritise LSM 5 and above, which accounts for 69.1 percent of the population (SAARF 2011). The uneven nature of media transformation places significant constraints on the media to develop a common space for deliberative debate.

South Africa has unsustainably high levels of inequality, with unemployment being a key driver of this inequality. In South Africa youth under the age of 35 constitute 70% of the population, and those under 15, 35% of the population. Nearly three million of the 6.7 million young South Africans are disengaged from society's major institutions, and youth unemployment is estimated at 51 per cent (Jones 2011). This makes it likely that youth are represented disproportionately in the lower LSM's.

While youth media consumption patterns are changing worldwide, with the internet becoming an increasingly important medium for the youth, in South Africa young people still remain heavily reliant on television for news, information, education and entertainment, especially public service television. In that regard, SABC 1 and 2 have seen particularly strong growth in the 25-34 age group. It is necessary for policy to protect the ability of society's most marginalised citizens – namely its youth - to receive and impart information and ideas, and thereby to participate in the public sphere, as their right to be heard is most under threat.

Troublingly, the upsurge of protests, with high levels of youth involvement, suggests a failing on the part of the media to serve as a channel for the expression of grievance in a manner that forces those in positions of authority to sit up and take note. The project of constituting the post-apartheid media as a common space for deliberative debate appears to be in trouble.

The digital terrestrial television transition provides South Africa with an opportunity to address television's uneven development, and its impact on audiences, given the enhanced

technological capacity for more broadcasters to offer more channels. Conversely, regulations that fail to address these disparities will also fail television viewers.

3. The use of the second mobile multiplex for DTT

The Authority's latest Draft Regulations are a considerable improvement on previous versions. The first Regulations confined the dual illumination period to incumbent broadcasters, to protect them from competition and to incentivise them to undertake the migration process. This was a regressive step for media diversity and one that benefited the incumbents at the expense of the public. With the adoption of the more efficient DVB-T2 standard and MPEG-4 compression standard, possibilities were opened up of new entrants being introduced even during the dual illumination period. Now, in response to the Department of Communications' revised Broadcasting Digital Migration Policy, published on 17 February 2012, the Authority has proposed using the second mobile television multiplex (MDTT2) for new commercial broadcasters, both subscription and free-to-air.

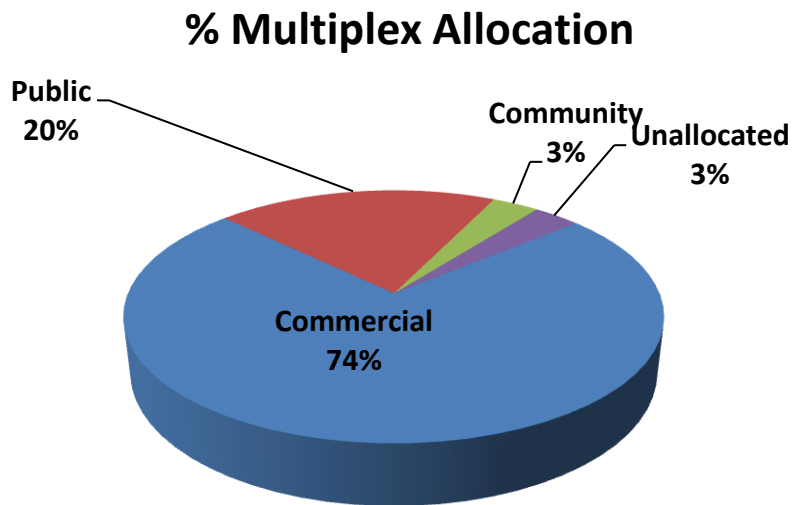
This proposal is a positive development and should be supported. The migration process is proving to be protracted, and to lock new entrants out for a lengthy period of time is not in the interests of media diversity. Furthermore, there are indications that the take-up of mobile television is relatively muted, suggesting that receiver costs are too high and, more fundamentally, that there is limited demand for the technology. Mobile television appears to be a technology in search of a use, and will probably never reach a mass audience; currently the service is geared towards high LSM's, and may not develop mass appeal even if receiver costs come down, given the preference of many television viewers to watch television at home. Internationally, mobile television has met with a mixed reception, and with the possible exceptions of Japan and South Korea, the technology does not seem to be meeting a clear demand. To hoard spectrum for services whose utility is unclear is unjustifiable, so releasing MDTT2 for digital terrestrial television use - where the usage could benefit far more viewers than those who stood to benefit from mobile television - makes a great deal of sense.

4. The allocation of multiplexes

The Authority's allocation of the multiplexes is problematic and needs to be reviewed. According to the Ministry of Communications' Amended Broadcasting Digital Migration Policy of 17 February 2012, the Authority was directed to explore how best to introduce new services and licensees' to increase media diversity while ensuring that the digital migration process gives priority to incumbent broadcasters. The Authority's proposal to use MDTT2 for the migration process is clearly a response to this direction.

However, this response does not capture the letter or spirit of the direction adequately. Currently there are two de jure (if not de facto) public broadcasting channels (SABC 1 and SABC 2), three commercial channels (SABC 3, M-Net and e.tv) and five community television broadcasters (the status of Trinity Broadcasting Network is unclear). If the multiplexes are allocated as proposed by the Authority, this will result in a de facto reduction of the proportion of the spectrum available to public and community television. This is because the allocations for these tiers of broadcasting remains static from the previous allocation recommended by the Authority, while the proportion of spectrum available to

commercial broadcasting increases as the proposed new multiplex 3 is allocated entirely to commercial broadcasting, both subscription and free to air. According to a diagram produced by the Right 2 Know Campaign, the multiplex allocations will be as follows:



Source: Right 2 Know Campaign briefing document on Icasa draft DTT regulations

The draft regulations will mean that 74 per cent of the airwaves will be set aside for commercial use compared to 3 per cent for community use, 3 per cent for unallocated use and 20 per cent for public use, which makes nonsense of the policy of three tiers of broadcasting (Right2Know 2012: 2). As a regulatory intervention implicitly designed to advance corporate interests and marketisation, the draft regulations will have the effect of weakening public and community television even further. The growth of the community television sector, which is beginning to take off, will be stunted. While the requirement for the SABC to provide regional windows is a positive development, this should not substitute for community stations on a stand-alone basis. The Authority should therefore reconsider its multiplex allocations to ensure that at least 20 per cent of the spectrum is allocated to community television.

Furthermore, with regards to the SABC, the regulations also entrench further the nonsensical split between public services and public commercial services. There is no evidence of this split having achieved its policy objective, namely to enable the SABC's commercial services to cross-subsidise the public services. Furthermore, all three SABC television channels are commercial channels to different extents, given the amount of advertising they carry. Therefore it makes sense to re-designate SABC 3 a public channel - thereby increasing the proportion of multiplex 1 for public service broadcasting and - and ensure that the SABC is de-commercialised by removing advertising from its services, which would free advertising up for additional services. The multichannel environment will, in any event, fragment adspend, making it more difficult for advertiser-reliant broadcasters to survive; so it makes sense to implement the African National Congress's recommendation to reduce the SABC's reliance on advertising by increasing public funding to the broadcaster.

In short, the draft regulations may well lead to increased competition combined with reduced diversity, which will represent a missed opportunity for the digital transition to broaden the public sphere and build citizenship. The proposed upward redistribution of spectrum to upper LSM's will have longer term negative consequences for the many South Africans who rely

overwhelmingly on public and community television as they may not recover lost ground after the migration process.

5. The option of High Definition Television (HDTV)

According to the draft Regulations, digital terrestrial television broadcasts will be broadcast in standard and/ or high definition. The open ended nature of this provision is problematic. Commercially-orientated broadcasters may well opt for HDTV, even at the expense of offering more channels, as an HDTV proposition will allow them to attract upper LSM's who already have access to HDTV-enabled sets and wish to improve picture quality. As these audiences are also likely to have access to a multitude of media, they will be less likely to be affected by fewer channel offerings. However, the Authority's opening up of the possibility of HDTV may make the digital transition harder to achieve. While HDTV may well become the main television standard of the future, it is not now, and the migration process will most probably be completed before South Africans in their numbers can afford HDTV-enabled television sets.

Countries undertaking digital migration often have to make decisions about whether to prioritise HDTV or to emphasise multichannel offerings to encourage voluntary digital take-up: these trade-offs remain relevant in spite of the improved compression standard. The Authority's regulations imply that such a trade-off does, in fact, need to be made, given that each multiplex can accommodate 21 standard definition channels or 6 high definition channels.

The Authority needs to pursue a form of digital migration that will ultimately benefit users. In this regard, user pull factors should be taken into account and not just producer/ technological push factors. According to Oxford University's Michael Starks:

'In countries where terrestrial reception is dominant, high digital penetration achieved during the period of voluntary take-up is important as a pre-condition of switchover, since this reduces the number of households whose main TV set is likely to be analogue at the point of compulsion. Such take-up does not have to be exclusively digital terrestrial but other platforms only contribute if they carry digital versions of the analogue terrestrial services to be withdrawn (Starks 2007: 7).'

South Africa faces the massive challenge of encouraging voluntary take-up of digital television in a relatively short space of time. If they are to be persuaded that buying set top boxes is a worthwhile outlay of money, there need to be demonstrable benefits, which implies relevant multichannel offerings that speaks to the country's news, informational and entertainments needs and interests on a mass scale. During the dual illumination period, this will most likely have to be at the expense of HDTV. Britain ensured a relatively quick take-up of digital broadcasting because they made a policy choice to prioritise multichanneling, leading to over 30 new multichannel offerings being made available through the Freeview service, developed by the British Broadcasting Corporation, ITV, Sky, Channel 4 and Arqiva.

If South Africa is to avoid viewer resistance to the process, and a politically destabilising backlash on the eve of switchoff, then it needs to prioritise multichannel offerings over and above HDTV. Decisions about these trade-offs should not be left to the discretion of the broadcasters. However, while the Authority should adopt standard definition as the default

standard, it should allow broadcasters the option to broadcast in HDTV on good cause shown. In making this evaluation, the Authority must consider the need to prioritise multi-channelling to incentivise digital television take-up in the shortest possible time.

6. Original content on digital incentive channels

In line with the above arguments, original content and local could also incentivise user take-up of digital television. Therefore the Authority's suggestion that digital incentive channels and new digital channels be required to carry a percentage of original content and local content is a positive suggestion that deserves support. However, the percentages for original and local content are low, and may adversely affect digital television take-up.

Since the introduction of local content quotas, the South African local content industry has experienced major growth, and South Africans have developed a strong appetite for local content. The success of many locally produced educational, drama programmes and soaps such as 'Generations', 'Muvhango', 'Sevende Laan' and 'Yizo Yizo', as well as the growth of the local music industry, have demonstrated that these quotas have been successful in stimulating demand for local content, and furthermore that South Africans are passionate about watching and listening to their own stories. Greater volumes of original content, especially local content, seems to be a sound way to incentivise take-up and an overly conservative approach towards quotas may work against this process.

7. Conclusion and recommendations

There have clearly been positive developments from the Authority's initial digital terrestrial television regulations. The Authority's proposal to reassign MDTT2 for digital television use is supported, as is the proposal to require minimum percentages of original and local content. However, the overall direction of the digital transition is worrying as it threatens to turn the policy of three tiers of broadcasting – already under strain – into a policy in name only. Therefore it is recommended that the Authority considers the following amendments to the draft regulations:

- Eliminate the split between PBS and PCBS in relation to SABC services and assign the PCBS channel as a PBS channel.
- Reconsider the multiplex allocations to community television to ensure that at least 20 per cent of the spectrum is allocated to community television.
- Disallow broadcasting in HDTV unless good cause is shown. In making this evaluation the Authority must consider the need to prioritise multi-channelling to incentivise digital television take-up in the shortest possible time.
- Investigate the feasibility of increasing the percentages of original and local content on digital incentive and new digital channels.

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