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ICASA Draft Code For Persons with Disabilities Regulations For Further Public Comment

Submission by the ICT Chamber for Persons with Disabilities Working Group on Affordable and Accessible ICTs Coordinated by the Accessible Broadcasting Subcommittee.

On behalf of the members of the ICT Chamber for Persons with Disabilities Working Group on Affordable and Accessible ICTs, the Accessible Broadcasting Sub-committee welcomes the opportunity to submit a compilation of comments received from its members to the Independent Communications Authority of South Africa (ICASA) in respect of ICASA Draft Code Regulations Notice 902 of 2017.

ICASA's amendments to the original public participation process of 2014 which informed updated amendments to these 2017 Draft Code Regulations are noted and appreciated. The proposed minimum percentages for Accessibility Services for Audio Description, Subtitles, Audio Captioning or Close Captioning appear to be more achievable and affordable by broadcasting licensees.

Our comments and recommendations contained herein are informed both by legislation implemented subsequent to the 2014 ICASA Hearings and inputs over the past two year period by the 118 members of the Working Group on Affordable and Accessible ICTs and its various sub-committees. In particular, the activities of its Accessible Broadcasting Sub-committee. Comments provisioning the correction of a few minor terminology and grammatical errors in the Draft code are also made in this submission.

The Accessible Broadcasting Subcommittee was established at the first meeting of the ICT Chamber's Working Group in September 2015 to address the introduction of ICT-based access services to persons with disabilities within the broadcasting sector. The absence of guidelines and standards and the proposed targets set for access services such as audio description; subtitles; audio captioning and close captioning was of concern when measured against affordability and accessibility impacts.

This prompted the subcommittee to investigate and evaluate alternative delivery options that were innovative and cost effective.

Subsequent Legislation:
It is noted that subsequent to ICASA's 2014 Public Hearings, the White Paper on the Rights of Persons with Disabilities (WPRPD) came into effect on 9 March 2016. This White Paper provides guidance for disability considerations in policy and legislative reform with the aim of integrating disability issues in all government development strategies, planning and programmes as well as regulations and policies.

Furthermore, in May 2015 the National ICT Stakeholders Forum comprised of 4 Chambers, of which the ICT Chamber for Persons with Disabilities is incorporated, was established to provide a platform for dialogue and engagement between government, the private sector, academia and civil society for the implementation of ICT-related policies and plans as provisioned in the National Integrated ICT Policy White Paper (approved by Cabinet 28 September 2016 and Published on 3 October 2017).

This White Paper outlines Government's approach to providing cross-government leadership and facilitating multi-stakeholder participation; interventions to facilitate innovation in the convergent ICT environment and new approaches to addressing supply-side issues and infrastructure rollout.

Formation of the ICT Working Group & Accessible Broadcasting Sub-Committee:

In September 2015, the ICT Chamber for Persons with Disabilities established a Working Group for Affordable and Accessible ICTs which initially had 9 sub-committees and has since expanded to 11 sub-committees.

The Working Group initially tasked the Accessible Broadcasting Sub-committee to investigate the introduction of Audio Description (AD) on South African Broadcast Networks, taking into account ICASA's proposed 2014 Draft Codes. As well as to address issues raised by stakeholders at the first Working Group meeting that specifically addressed:

[1] The Absence of Regulatory Standards & Guidelines for the introduction and broadcasting of AD on Public media platforms;
[2] The Impact of Affordability & Accessibility factors in the planning, implementation and production of Accessibility Services (inclusive of AD; South African Sign Language; Subtitles; Audio Captioning or Close Captioning);
[3] Determining Alternative AD Solutions & Options.

A summary of the issues and activities addressed by the Accessible Broadcasting Sub-committee over the past year that is inclusive of Accessibility Services for Blind and Vision Impaired persons; Deaf and Hard of Hearing persons and persons susceptible to Photosensitive Epilepsy, which provides substance to our comments presented herein, is available in the following Reports and Reviews.

Refer to:

Addendum A: Accessible Broadcasting Sub-Committee Progress Report to the Working Group Meeting 22 November 2017

Addendum B: SABC Editorial Policy Review Submission by Working Group's Accessible Broadcasting Sub-Committee 31 August 2017

Addendum C: Accessible Broadcasting Sub-Committee Progress Report to the Working Group Meeting June 2017.

Addressing Absence of Regulatory Standards & Guidelines

One of the Accessible Broadcasting Subcommittee's tasks was to investigate internationally accepted Standards in the production and broadcasting of audio described soundtracks. The Subcommittee engaged with the South African Bureau of Standards (SABS) Consumer Protection Committee who indicated that they would provide oversight on a number issues, including minimum Standards of compliance in Universal Design requirements for all electronic communications.

Meetings with the SABS established their potential willingness to engage with the sector in developing a South African National Standard for the broadcasting of Accessible Services on public platforms (Audio Description; the Presentation of text in videos including captions, subtitles and other on screen text).

Collaborating with their International Organisation for Standardization (ISO) and International Electrotechnical Commission (IEC) technical committee counterparts, to potentially align existing international standards in developing a South African Standard for Accessibility Services if required.

Of interest, it is advised that in 2010, the United Kingdom's Royal National Institute for the Blind (RNIB) conducted **a Comparative Study of Audio Description Guidelines Prevalent in Different Countries** that revealed that the existing standards developed in each country were not very different from each other with only a few minor differences. Aside from the UK, a number of countries such as Germany, France, Spain, Sweden, Belgium and Greece also rolled out their guidelines/ standards/ codes for the production of Audio Description in their countries. The most comprehensive set of instructions for audio describers is the **Guidance on Standards for Audio Description** developed by the Independent

Television Commission (ITC), the body that controls commercial TV broadcasting in the United Kingdom.

It is noted that the Broadcasting Sub-committee met with ICASA in May 2016 and it was acknowledged that ICASA could not prescribe to Licensees on Content and Programme material issues. However, they are mandated to regulate the basic Standards for Accessibility Services that Licensees should abide by in accordance with the draft amendments to the Electronic Communications Act.

Our recommendation is that in its Draft Code Regulations **Part 4: Basic Standards for Broadcasting Services Licensees**, ICASA incorporates certain Guidelines and Standards for Audio Description which may be aligned to an SABS coordinated ISO/IEC Standard requirement for Accessible Services. This is especially relevant given our country's multi-lingual and cultural differences which may be negatively impacted by unregulated Accessibility Services.

Licensees would be required to adhere to these Basic Standards and Guidelines in their Year 1 implementation of the minimum levels applicable to each Accessibility Service as provisioned.

Refer to the following Addendum which provide summarized samples of some existing ISO/IEC standards for Accessibility Services:

Addendum D: Guidance on Audio Descriptions ISO/IEC TS 20071-21:2015

Addendum E: Guidance for Alternative Text for Images ISO/IEC TA20071-11-2012

Addendum F: Guidance on audio presentation of text in videos including captions, subtitles and other on screen text

Addressing The Impact of Affordability & Accessibility Factors & Alternative AD Solutions and Options

A significant innovation proposed by the Sub-committee provisioning greater accessibility for blind users (via mobile phone devices and radio receivers) as well as being more affordable to broadcasters, was the use of Digital Radio as an ideal alternative transmission channel to broadcast audio Described soundtracks for programmes being simultaneously broadcast on TV. This would also overcome limitations in the Digital TV migration process and provision of accessible set-top box / decoder devices.

The Working Group's Inclusive Education sub-committee also recognised the significant potential tf Digital Radio broadcasting in promoting inclusive education and the use of ICT in Education without incurring data costs. Furthermore, the split-channel capabilities of Digital Radio in

accommodating the simultaneous broadcast of educational literature in multiple mother tongue languages as well as broadcasting both data (text) and audio simultaneously via digital radio transmission.

Refer to Annexures A and B for more information on the benefits of Digital Radio

The Accessible Broadcasting subcommittee supports the National Association of Broadcasters (NAB) call for ICASA to conduct a Regulatory Impact Assessment (RIA) in addressing affordability and accessibility factors in providing Accessibility Services for Persons with Disabilities. Outcomes should form a part of ICASAs Draft Code Regulations. This would enable broadcasters to develop guidelines on which to base their accessible service policies and broadcasting services to persons with disabilities.

Thereby not only enhancing broadcasters service offerings, but also potentially identifying alternative transmission options that may prove to be more sustainable and cost effective i.e. broadcasting audio described soundtracks via digital radio channels and mobile networks so that such services are more accessible to the majority of persons with disabilities living in rural areas and urban dwellers who could receive such AD transmissions via their mobile devices.

Comments receive by the Accessible Broadcasting Sub-committee from persons in the blindness sector indicated their concerns towards the disruptive nature of the viewing experience by their sighted family members when viewing TV programmes with an Audio Description soundtracks as a group experience. They welcomed the potential of being able to simultaneously view the same TV programme in the company of family members but with their own independent and privately heard, digital radio transmisson.

Specific requests made by stakeholders in the disability sector was that audio described programmes should be provided on applications which enabled the user to listen to the described television broadcast via an app on a mobile phone. They felt that audio description soundtracks should be provided on alternative applications.

Internationally, mobile handsets are able to receive digital radio content. However, in South Africa, today, only the LG Stylus mobile phone handset is currently available and able to access digital radio transmissions. It is reported that local Mobile Phone Providers are not importing handsets with digital radio capabilities as they currently derive huge profits from persons using their "data allocations" when listening to existing analogue and internet radio stations via their mobile devices.

The Draft Code Regulations should provision that broadcasters provide accessible service transmissions to persons with disabilities that can be received on various multiple platforms and via a variety of device options.

Universal Designed Products and Services

Licensees that broadcast television signals via a decoder must ensure that the decoder and remote control handset are accessible to blind persons by enabling these devices to produce sound output that enables persons to navigate menus and select channels.

DSTV currently provides the ICT Working Group with monthly schedules of Audio Described programmes and channels for the distribution within the disability sector. Persons can access an audio described version of a DSTV programme being broadcast on a separate dedicated AD channel.

Issues that blind DSTV subscribers currently endure is that the DSTV remote 'does not talk' so they cannot independently access the audio Described Channels without the assistance of a sighted person. Furthermore, they then need to memorize the sequence in selecting such channels should a sighted persons not be around.

It is suggested ICASA regulate the requirement for licensees to provide an audio described setting on their menu bouquets and applications. Netflix has a menu application which assists blind persons to access channels and menus (this includes all programmes including News and Sport Channels, not only Channels with Audio Description).

In addition to ensuring that all electronic communications devices ready for purchase are Universally Designed (Page 8, Item 5.(1)) Electronic Communications Services (ECS) Licensees should also be required to ensure that they source products and devices which are compatible and comply with existing systems and standards in South Africa.

For example, the Royal National Institute for the Blind (RNIB) in the United Kingdom, supplies various cordless landline 'talking phones' that are accessible to persons who are blind or vision impaired. These devices cannot be used in South Africa due to the different telephone connection cable socket standards between the two countries. South Africa uses an RJ11 socket whilst the UK standard socket is the BS6312 431A which has been the UK's connector standard since 1981.

It is noted that the Draft Code Regulations do not make provision for speech-enabled landline telephones for use by blind or visually impaired persons.

Another request by blind and physically challenged persons that has not been accommodated by mobile phone providers to date, is the need for pushbutton displays for smartphones instead of the current touch-screen displays for smart phones. South African Mobile phone operators have

paid lip service to push-button modified smartphone mobile devices requested by local persons with disabilities who are well aware of their existence internationally, where many thousands are being sold to their counterparts in the United Kingdom.

It is noted that the Draft Codes *Item 7* **Promotion of Awareness and Compliance** *Clause (1)* does provision the requirement for Licensees to conduct awareness campaigns at least twice a year that address issues of Accessibility, design, affordability and information on products.

However, the requirement for the Licensee to deliver on and to be accountable to requests from the disability sector or to provide tangible solutions and devices is not stipulated in the one-way communication term of 'awareness campaigns'.

Furthermore, it is requested that 'audio files for blind and visually impaired persons' be included in *Item 6* **Access to information** *Clause (a).* Currently, provision by Licensees is for '*printed material outlining accessible products for persons with disabilities in simple and reader friendly languages in their stores*". Also that "*brochures, videos and other information be provided to organisations that work with deaf persons on a regular basis*". This requirement should be inclusive of organisations that work with blind persons as well as deaf persons.

Items and Potential Opportunities not addressed in the Draft Code Regulations

1. Persons with disabilities such as photosensitive epilepsy are not accommodated in the Draft Code. Provision regulating 'flashing images' in TV broadcasts and on licensee websites and online communications should be included.

2. ICASA may consider imposing a levy on Licensees in the form of a Universal Service Obligation which may provide essential ITC or other Broadcasting services or products that directly benefit persons with disabilities or more valuably, the 453 Basic Education Institutions For Children With Special Needs.

   An example of an existing USO imposed by ICASA in its licensing requirements to mobile phone operators is the mandatory provision of ICT devices to Schools, with the financial value of the actual USO contribution being determined by the size of spectrum granted to the specific licensee.

   Alternatively, the requirement that Digital TV broadcast licensees have a Universal Service Obligation to provide a Digital Radio Channel or Station that serves the listening needs of the blindness sector as well as Education services to Schools for all students with Special Needs may be one such USO that can be implemented during the initial Year-1 phasing in of the Accessibility Services regulations.

Minor Grammatical and Terminology Corrections:

1. Page 3 - Definitions:
   "**Accessibility**" means the ability by person**s** with disabilities to equally access and benefit from broadcasting and electronic communications services.
   Correction: Add the missing 's' to persons.

2. Page 9 – Item (h)
   "a telephone adapting device which allows a person with <u>a</u> cochlear implant to have access to the standard telephone service.
   Correction: Add the missing 'a' before 'cochlear'.

3. Page 9 – Item (j)
   "**Alternate formats** – An ECS licensee must make provision for product information and billing in alternate formats (Braille, large print, electronic (plain text or HTML, audiocassette etc.) upon request. Accessible manuals should be available from the operators or accessed through the operators' website;"
   Correction: It is recommended to replace the term 'audiocassette' to 'audio files' rather than prescribing the type of device that these 'audio files' should be made available on.   Collins dictionary defines 'audiocassettes' as *"…a cassette containing audiotape".* This is not 'electronic' and therefore should not be coupled with the other electronic formats such as *'…plain text and HTML'.* Furthermore, such 'audio tape cassettes' are no longer available from retail outlets in South Africa today, nor can persons easily purchase tape cassette playback devices from retailers. A further recommendation may be to identify the type of devices that electronic formats

   Amended Correction: "**Alternate formats** – An ECS licensee must make provision for product information and billing in alternate formats such as Braille or as large print documents or in various electronic formats such as plain text or HTML or as audio files upon request, which are available via downloading or stored on either USB memory stick, CD or DVD. Accessible manuals should be available from the operators or accessed as downloads from the operators' website;"

4. Page 10 – item 6.2 Emergency Services:
   "**Emergency services: ECS** licensees should provide special numbers for [emergencies] **emergency** services for person**s** with disabilities. Access should be provided to fire, police, disaster management and ambulance emergency services;
   Correction: Replace 'emergencies' with emergency' and add the missing '*s'* to persons.

5. Advertisements and promotions for products and services specifically designed for persons with disabilities should be made available in accessible formats to relevant organisations **[of and]** for persons with disabilities in every province and upon request.
Correction: Delete 'of and' indicated in brackets above.

In Conclusion

The Accessible Broadcasting Sub-Committee would welcome the opportunity to provide ICASA with any additional information in support of our collective comments submitted herein or answer any questions that may arise from matters raised.

The broad range of stakeholders comprising the118 members of the Working Group for Affordable and Accessible ICTs for Persons with Disabilities provides for an ideal platform for dialogue and engagement between government, the private sector, academia and civil society.

The Working Group's 11 subcommittees such as: [1] Inclusive Education; [2] Accessible Call Centres; [3] Accessible Websites; [4] Consumer Protection; [5] African Digital Voices; and [6] Accessible Broadcasting, is able to provide Regulators like ICASA with valuable networks and resources when dealing with persons and organisations within the Disability Sector.

Furthermore, the Working Group extends and open invitation to ICASA to nominate a representative to serve in its interests on the Working Group for Affordable and Accessible ICTs for Persons with Disabilities towards the enhancement and implementation of its Draft Code Regulations.

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