



MULTICHOICE ANNUAL COMPLIANCE REPORT

MARCH 2017

2015/2016 ANNUAL COMPLIANCE REPORT

MULTICHOICE PTY LTD BROADCASTING AS DSTV

LICENCE PERIOD : 07 AUGUST 2008 - 06 AUGUST 2023

1. PREFACE

The Independent Communications Authority of South Africa (the Authority) has a statutory mandate in terms of the Constitution¹, the ICASA Act² the Electronic Communications Act³ (ECA) and the Broadcasting Act⁴ to regulate broadcasting activities in South Africa in the public interest. One of the main tasks of the Authority is to ensure that broadcasting service licensees comply with the said pieces of legislation as well as specific terms and conditions of their licence.

The purpose of the report is to give an account of Multichoice's performance for the 2015/2016 financial year. The report focuses on the following aspects: Geographic Coverage, Languages, Format, Training and Skills Development Obligations, Staff Development Equity Plan, Ownership and Control by Previously Disadvantaged Individuals, Finances, Contribution to the Broadcasting Sector, South African Television Content Regulations, South African Music Regulations, Must Carry Regulations, Universal Service and Access Fund, Subscription Broadcasting Regulations, Licence Fees Regulations, Code on People with Disabilities, Sports Broadcasting Rights Regulations and Regulations on Standard Terms and Conditions.

2. BACKGROUND

On 04 August 2008, the Authority granted and issued a commercial subscription television and sound broadcasting service licence to Multichoice Africa (Pty) Ltd. The shareholder as reflected in the licence is Multichoice South Africa Holdings (Pty) Ltd. Multichoice South Africa Holdings owns 100% of Multichoice (Pty) Ltd.

¹ The Constitution of the Republic no 108, 1996

² ICASA Act no 13, 2000 as amended

³ Electronic Communications Act no 36, 2005

⁴ Broadcasting Act no 4 of 1999

The ownership held by persons from historically disadvantaged groups during the period under review (as at as at 31 March 2016) is as follows: Multichoice (Pty) Ltd: 50.07%.

3. COMPLIANCE ASSESSMENT

3.1 Geographic Coverage Area

Clause 2 of the licence stipulates that:

"The Licensee shall provide a national coverage of its broadcasting services".

The Licensee confirms that it provides its service through satellite and therefore provides national coverage of its broadcasting service.⁵ The Licensee complies with clause 2 of its licence.

3.2 Encryption, signal and use of licensed electronic communications network service.

Clause 3.1 of the licence states that:

"The Licensee must ensure that the output signal of its subscription broadcasting service is encrypted".

Clause 3.2 of the licence provides that:

"The Licensee shall use the licensed communications network service of a licence".

The Licensee confirms that its output signal of its subscription broadcasting service is encrypted. The Licensee has also confirmed that its network service provider is Orbicom (Pty) Ltd, which is a licensed communications network service provider. The Licensee has submitted a copy of Orbicom's licence.

The Licensee complies with clause 3.1 and clause 3.2 of its licence.

⁵ Appendix A: Subscription Broadcasting Service Licence

3.3 Language(s)

Clause (4) of the licence states that:

"This is left to the discretion of the Licensee".

A significant number of the Licensee's programmes are broadcast in English; however other programmes are broadcast in other languages such as Portuguese, Afrikaans and Indian Languages.

The Licensee complies with clause 4 of its licence.

3.4 Format

Clause 5 of the licence stipulates that:

"The Licensee is licensed to provide a subscription broadcasting service aimed at the general public and niche markets".

The Licensee confirms that its service is aimed at the general public, through its general entertainment channels and niche market through its special interest channels. **The Licensee complies with clause 5 of its licence.**

3.5 Training and Skills Development Obligations

Clause 6.1 of the licence provides that:

"The Licensee shall ensure that training and development needs of its staff, with particular emphasis on individuals from historically disadvantaged groups, are identified on an annual basis and are reflected in its workplace skills plan".

The Licensee submitted its workplace skills plan for the period under review. The Licensee maintains that learning and development initiatives of its employees with particular emphasis on individuals from historically disadvantaged groups were implemented and addressed as outlined below

(a) Business Skills Training and Job Specific Training

The Licensee submits that it spent ninety percent (90%) of its training budget to develop its employees on business and job specifics. Eighty percent (80%) of the total spent amount was dedicated to developing the previously disadvantaged persons. Fifty percent (50%) was spent on females.

(b) Management and Leadership Development

The above training included New Management Programme, Leading Women, Catalyst Programme and Strategic Media Leadership Program.

The Licensee spent eighty percent (80%) of its total training budget on the development of historically disadvantaged groups. Fifty-three percent (53%) of the total amount was spent on females. **The Licensee has complied with clause 6.1 of its licence.**

Clause 6.2 of the licence states that:

" The Licensee shall submit its workplace skills plan to the Authority within a month of issuing of this licence and thereafter by the 30th of June each year".

The Licensee submitted its workplace skills plan to the Authority in accordance with the requirement and therefore **complies with clause 6.2 of its licence.**⁶

Clause 6.3 of the licence reads:

'The workplace skills development plan shall report on and review a twelve month period (April to March), and shall include targets in terms of race and gender".

Clause 6.4 of the licence requires:

"The workplace skills plan shall reflect race and gender targets at all occupational levels, including senior and top level management".

⁶ Ibid

The Licensee submitted its workplace skills development plan that reflects targets in terms of race and gender. For example, of the 37 employees who completed the "New Manager Programme" 25 were historically disadvantaged employees, 17 of whom were female.

The Licensee further reported that 29 people completed the "Management Advancement Programme" and 20 were historically disadvantaged employees and 11 were female.

Further, the Licensee reported that 11 employees completed the "Leading Women" programme. **The Licensee has complied with clause 6.3 and clause 6.4 of its licence.⁷**

3.6 Staff Development and Equity Plan

Clause 7.1 of the licence stipulates that:

"The Licensee shall submit its five-year employment equity plan to the Authority within a month of the issuing of this licence".

The Licensee submitted its five year plan to the Authority in line with clause 7.1 of its licence and was **found to be in compliance with clause 7.1 above.**

Clause 7.2 of the licence requires that:

"This employment equity plan shall report on and review a twelve month period (October to September), and shall include targets in terms of race and gender".

Clause 7.3 of the licence specifies that:

"The employment equity plan shall reflect race and gender targets at all occupational levels, including senior and top- level management".

⁷ Appendix C: Annual Training Report 2015/16

The Licensee submitted information in respect of clause 7.2 and clause 7.3 above. The report outlines targets at occupational levels including senior and top -level management as well as targets in respect of race and gender as follows:

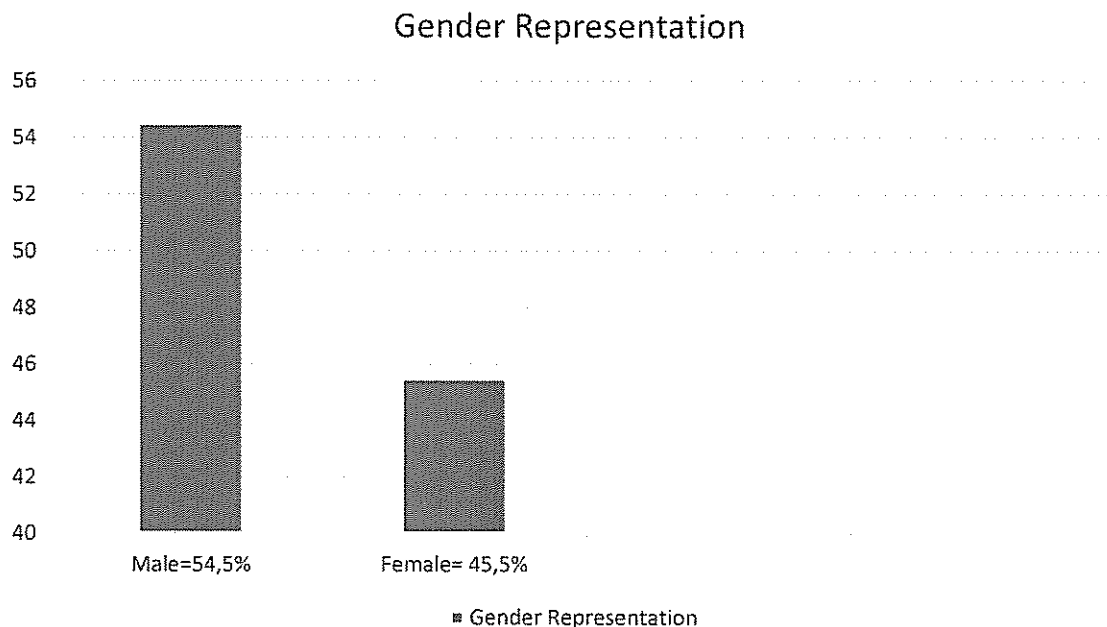
(A) Female

Occupational level	African	Coloured	Indian	White	Foreign National
Top management	0	0	2	2	0
Senior management	22	7	3	35	1
Professional and Mid management	70	21	37	48	9
Skilled and Junior management	521	84	54	79	11
Semi-skilled	888	68	16	14	1
Unskilled	40	1	0	0	0
Grand total	1541	181	112	178	22

(B) Male

Occupational level	African	Coloured	Indian	White	Foreign National
Top management	6	0	0	6	0
Senior management	16	10	18	72	4
Professional and Mid management	100	33	62	107	20
Skilled and Junior management	410	71	75	102	14
Semi-skilled	494	32	20	11	0
Unskilled	18	0	0	0	0
Grand total	1044	146	175	298	38

The figure below represents the Licensee's overall gender breakdown of employment equity for the period under review:



The Licensee was found to be in compliance with clause 7.2 and clause 7.3 of its licence.

Clause 7.4 of the licence provides that:

"The Licensee shall submit an annual compliance report in the format prescribed by the Authority".

The Licensee submitted its annual report in accordance with clause 7.4 of the licence and **therefore is compliant with clause 7.4 of its licence.**

3.7 Target Market

Clause 8 of the licence states that:

"Primarily LSM 2-10 as defined in the All Media Product Survey (AMPS) 2007".

The Licensee confirmed that its target market is primarily LSM 2-10 as defined in the All Media Product Survey (AMPS) 2007. Accordingly, the **Licensee was found to be in compliance with clause 8 of its licence.**

3.8 Ownership by Individuals from Historically Disadvantaged groups

Clause 9 of the licence states that:

"The Licensee shall have no less than 30% ownership by persons from historically disadvantaged groups".

The Licensee confirmed that it has more than 30% ownership from historically disadvantaged groups. The ownership by HDI's as at 31 March 2016 was 50.07%. Multichoice has submitted a copy of the certificate from a verification agency, Empower Logic (Pty) Ltd which confirms this figure.

The Licensee was found to be in compliance with clause 9 of its licence.

3.9 Financial Year End

Clause 10.1 of the licence stipulates that:

"The financial year end of the Licensee is 31 March".

Clause 10.2 of the licence provides that:

"If this date changes, the Licensee shall in writing notify the Authority thereof within seven (7) business days of the change".

During the period under review, the Licensee confirmed that its financial year end is 31 March each year; this is also reflected in the Licensee's Audited Financial Statements.

The Licensee was found to be in compliance with clause 10.1 and clause 10.2 of its licence.

3.10 Contribution to Broadcasting Sector

Clause 11.1 of the licence states that:

"The Licensee shall promote and support the South African broadcasting industry to the value of R5 000 000.00 (five million Rand) per year, focusing predominantly

to disadvantaged groups, SMMEs, students and youths from historically disadvantaged groups”.

Clause 11.2 of the licence prescribes that:

“Within 3 months of its financial year end the Licensee shall deliver to the Authority a written report demonstrating compliance with this clause”.

During the period under review, the Licensee submitted that it identified the community television sector as deserving of assistance. To this end, five community TV broadcasting Licensee’s from historically disadvantaged groups were assisted financially. These were 1 KZN TV, Bay TV, Cape Town TV, Soweto TV and Tshwane TV.

The Licensee indicated it used its sports content development programme, Multichoice Diski Challenge, as a vehicle to empower the identified community broadcasters. The Multichoice Diski Challenge is a multifaceted social investment programme that aims to empower young people through broadcasting skills development and football. As part of the programme Community TV channels participate as broadcast partners with full rights to all content for the programme. The benefit to the Community TV sector and the public is that for the first time, the viewers of Community TV can now enjoy live soccer coverage under the auspices of PSL.⁸

According to the Licensee, in the year under review it provided the full content rights as a donation to all the participating community TV Channels. The donation provides that the Community TV channels receive full content distribution rights for all content generated for the programme including, all live matches, all non-live matches, all highlights packages and the MultiChoice Diski Challenge magazine show. In addition, the community TV channels also have rights to generate their own content from all events related to the MultiChoice Diski Challenge on and off the field. As part of the donation agreement, MultiChoice also provides technical

⁸ Annexure E of Multichoice Compliance Report.

support and equipment to the channels to ensure that they are able to receive and make use of the content rights.

The Licensee states that the content rights provided to the Community TV Channels in the period 1 April 2015 to 31 March 2016 include the MultiChoice Diski Challenge PSL Reserve League content and the magazine show. The total contribution to Community TV channels is R32 760 000.00 per community TV station.

In addition to the broadcast rights provided, the Licensee also provided the production and execution of perimeter boards for all live MultiChoice Diski Challenge games with Community TV branding 5 boards (1 board per channel) at R36 000 per board which amounts to R360 000.00. A total of 44 matches were broadcast live on SuperSport and Community TV channels.

Tshwane Community TV station received a donation of R2.4 million worth of studio equipment.

The Licensee was found to be in compliance with clause 11.1 above.

4 REGULATIONS

4.1 Must Carry Regulations

Regulation 4 of the ICASA Must Carry Regulations as published in the Government Gazette, no 31500, 10 October 2008 provides that:

"All Subscription broadcasting service licensees must carry the channels of the Public Broadcasting Service licensee, designated as must carry channels as part of the service offering, subject to Regulation 5".⁹

The licensee has confirmed that it complies with this obligation as it carries all three channels of the South African Broadcasting Services (SABC).

Regulation 8 requires that:

⁹ Appendix D: Must Carry Regulations

"The subscription broadcasting service Licensee must submit a copy of the agreement within thirty (30) of such agreement being concluded and signed".

For the period under review, the Licensee submitted that it signed the Must Carry Agreement as required by Regulation 8, with the SABC. The Agreement was signed on 14 April 2011 and was submitted to the Authority on 09 May 2011.

The Licensee was found to be in compliance with the requirements set out in the Must Carry Regulation.

4.2 Subscription Broadcasting Services Regulations

Regulation 3 (1) of the Subscription Broadcasting Regulations as published in the Government Gazette, no 28452, 31 January 2006 provides that¹⁰:

"A subscription broadcasting service licence may not add a channel to its service unless the Authority, on application by the licensee, has authorised the channel."

Regulation 5 stipulates that:

"A subscription broadcasting service shall, within 120 days after the end of its financial year of operation, submit to the Authority audited financial statements stating that, in the opinion of the auditor, the accompanying statements give a true and fair view of the licensee's subscription, advertising and sponsorship revenue derived from the provision of the subscription broadcasting service".

The Licensee submitted its Audited Financial Statements to the Authority for the period ending 31 March 2016. Accordingly, **the Licensee was found to be in compliance with Regulation 5 above.**

Section 60(4) of the ECA states that:

"Subscription broadcasting services may draw their revenues from subscriptions, advertising and sponsorships, however, in no event may advertising or sponsorships or a combination thereof, be the largest source annual revenue".

¹⁰ Appendix E: Subscription Broadcasting Services Regulations

The Audited Financial Statements of the Licensee show that the Licensee complies with section 60(4) of the ECA in that, the revenue derived from subscription far exceeds revenue derived from advertising. The figures cannot be revealed due to the fact that the Licensee applied for confidentiality to its financial information which was granted by the Authority.

The Licensee was found to be in compliance with Section 60(4) of the ECA.

"A subscription broadcasting service licensee may not add a channel to its service unless the Authority, on application by the licensee, has authorised the channel".

The Licensee confirmed that it applied and was granted, by the Authority, authorisation to add 30 channels in the previous financial year under review.

The breakdown of the channels added is as follows:

Video	19
Audio	09
Special Events	12
Total	30

The Licensee submitted the list of all channels authorised by the Authority.

The Licensee was found to be in compliance with the above section of the ECA.

4.3 Licence Fees Regulations

General Licence Fees Regulations as published in the Government Gazette, no 32084, 01 April 2009, provides that:

"Individual Commercial Broadcasting Service Licensee's must pay annually to the Authority a licence fee of 1.5% of its gross profit".¹¹

Schedule 3 (4) (b) of the General Licence Fees Regulations provide that:

"Annual payments are due and payable within 6 months from the end of the licensee's financial year".

The Licensee paid its annual licence fee to the Authority on 29 September 2016.

The Licensee was found to be in compliance with the Licence Fees Regulations.

4.4 Universal Service and Access Fund Regulations

Regulation 3 (1) of the Regulations in respect of Prescribed Annual Contributions of Licensees to the Universal Service and Access Fund (USAF) as published in the Government Gazette, no 31499 of April 2009 requires that:

"Every holder of the licence granted in terms of Chapter 3 or converted in terms of Chapter 15 of the Act, must pay an annual contribution of 0.2 % of the annual turnover, derived from the licensee's licence activity, to the Fund (the Fund)".

Further, Regulation 3 (3) requires that:

"A broadcasting service licensee who has paid an annual contribution to the Media Development and Diversity Agency (MDDA) must set off that contribution against its prescribed annual contribution to the Fund".¹²

The Licensee paid its annual USAF contribution less contribution to the MDDA to the Authority on October 2016.

¹¹ Appendix F: General License Fees Regulations

¹² Appendix G: USAF Regulations

The Licensee has submitted a breakdown of allocation between MDDA and USAF contributions, however the breakdown is not attached to the report as the Licensee has applied for confidentiality in respect of this document.

The Licensee was found to be in compliance with the regulations in respect of Universal Service and Access Fund.

4.5 South African Television Content Regulations

Regulation 5.4 of the South African Television Content Regulations published in the government gazette No 28454, dated 31 January 2006 provides that:

"A subscription broadcasting licensee must spend a minimum of 10% of its content acquisition budget on acquisition of channels with local content which are compiled and uplinked from South Africa".¹³

The Licensee submitted the breakdown of content acquisition budget expenditure demonstrating that it spent more than 10% on channels with local content which are compiled and uplinked from South Africa.

As indicated, details of amount spent cannot be disclosed in this report as the Licensee applied for confidentiality in this regard and same was granted by the Authority.

The Licence complied with the South African Content Regulations.

4.7 South African Music Content Regulations

South African Music Content Regulations requires the Licensee to ensure that a minimum of 10% of its bouquets consists of channels made up of South African music content.

¹³ Appendix H: South African Television Content Regulations

According to the Position Paper on Subscription Broadcasting, the Authority expected the subscription broadcasting services to meet this requirement through, among other things, carrying South African radio stations on its sound bouquet¹⁴.

The Licensee has confirmed that its sound bouquet consisted of more than 10% channels with South African music. The Licensee also submitted a list of the channels on this bouquet with South African music. The said channels exceed 10% of the bouquet and currently stand at 35%.

The Licensee has complied with this Regulation.

4.8 Standard Terms and Conditions for individual broadcasting licensees Regulations ¹⁵

The Licensee submitted its reports in terms of these Regulations. The Authority did not find any act of non-compliance by the Licensee in this regard.

4.7 Code on People with Disabilities

Regulation 3.1 (a) of the Code on People with Disabilities as published in the Government Gazette, no 30441, 7 November 2007, states that:

*"Broadcasting service licensees must ensure that their services are made available and are accessible to people with disabilities".*¹⁶

Regulation 3.1 (b) stipulates that:

"Options for making broadcasting services more accessible may include the following:

- i. Improve and/or increase subtitles and sign language;*
- ii. Expand knowledge on various adjustments such as induction loops, Mincom/text phones and alternatives computer software;*
- iii. Access to programme support such as fact sheet;*

¹⁴ Paragraph 18.2 on page 75 of the Subscription Broadcasting Position Paper, June 2005.

¹⁵ Appendix I: Regulations Regarding Standard Terms and Conditions for Individual Licences

¹⁶ Appendix J: Code on People with Disabilities

- iv. *Website to offer a range of formats (such as electronic versions, Braille and audiotape);*
- v. *Use of spoken languages where economic indicators, weather details, telephone numbers and addresses or details of goods and services are shown on-screen; and*
- vi. *Use of non-scheduled services such as access via Personal Video Digital Recorders (PVR's) and TV anytime".*

Regulation 3.1 (c) states that:

"Broadcasting service licensees must monitor the effectiveness of their service through surveys as well as contact with organisations of and for people with disability and stakeholders".

The Licensee submitted that as part of its compliance with the code, it has embarked on the following projects aimed at ensuring that its services are accessible to people with disabilities:

➤ **Subtitling for deaf people:**

Subtitling is a technology used by the content industry aimed at improving viewing experience and access by deaf people or hearing impaired.

According to the Licensee, it together with M-Net as its content partner, continues investing in this technology with the intention of increasing channels that include subtitling. Currently, all M-Net movie channels have subtitles. These include M-Net, M-Net Edge, Vuzu Amp, Vuzu, Mzansi channels, M-Net City, Kyknet and all M-Net Movie channels.

In terms of its future investments, the Licensee together with Sky News (channel 402) are working on the introduction of Hearing Impaired subtitles in the news channels, making it the first live news channel in South Africa to offer this feature.

The subtitles are inserted via "voice-to-text" technology which allows the subtitles to be delivered, without delay during a live broadcast. This technology is known as "Speaker Dependent Recognition", where a trained subtitler, with a customised voice model re-speaks the spoken content of the news with punctuation and

formatting into the software that then promptly converts the spoken word into subtitles, thereby countering any issues experienced with regional accents¹⁷.

The effect of this technology is that deaf viewers will be able to watch and read news as its presented on air.

➤ **The Jumbo Remote for people who due to disability are unable to use normal remote.**

The Licensee have previously reported to the Authority regarding the introduction of its Jumbo Remote, which is a special remote control for people who, due to disability involving sight are unable to use the normal decoder.

The Remote was developed with the assistance of Blind SA, the organisation representing blind people.

The Licensee confirmed that it continues to work with Blind SA to ensure accessibility to its services by people who sight impaired.

➤ **Audio Descriptive for Sight Impaired**

The Licensee advises that it has introduced audio descriptive tracks (ADT) for the sight impaired.

ADTs use succinct and vivid words to convey the visual image that otherwise would not be accessible to the people who are blind or sight impaired. By way of illustration, the blind person is able to follow the narration through dialogue by the characters in the movie, however they are unable to experience the context or the actions by the actors. The ADTs ensure access to the context or actions they can't see by describing these, e.g. character X is walking, character B is approaching character X, etc¹⁸.

¹⁷ Page 10 of Multichoice report.

¹⁸ Pages 11-12 of Multichoice report.

According to the Licensee, ADTs are now available on some of the movies and selected decoders. The list of the movies with ADTs is made available to Blind SA on a monthly basis.

➤ **DSTV Audio Books Website:**

DSTV's Tape Aids for the Blind website, offers members of Tape Aids for the Blind free access to digitised copies of books that can be downloaded and listened to. DSTV/MultiChoice worked together with Tape Aids for the Blind to obtain digitised copies of books and made the website available to their members.

➤ **Future Project: Programme Schedule**

According to the Licensee, not all channels and programmes have subtitling. It is therefore difficult for deaf people to identify programmes with these features in advance so that they can plan their viewing schedule.

In order to assist in this regard, the Licensee advises that it is currently investigating the feasibility of highlighting programmes and channels with these features on its on-air schedule. This will be done by adding a filter to several screens on the decoders that will highlight what content includes subtitles. This will allow viewers seeking content with subtitles to select, record or set reminders for their chosen content.

The Licensee has undertaken to report on the progress of this project in its next compliance report.

The Licensee complied with the requirements of the code on People with Disabilities.

4.8 Sports Broadcasting Regulations

Regulation 9 (2) of the Sports Broadcasting Rights Regulations as published in the Government Gazette, no 33079, 7 April 2010 requires that:

"A broadcaster, who is involved in broadcasting national sporting events, shall file the records of its broadcasts one hundred and twenty (120) days from the date of

*the publication of these regulations and after every year from the date of the first filing”.*¹⁹

The Licensee submitted to the Authority, records of broadcast, in October 2016.

The Licensee was found to be in compliance with the Sports Broadcasting Regulations.

5 CONCLUSION

The Licensee has demonstrated satisfactory compliance with its licence terms and conditions, applicable legislation and regulations.

6 TERMS OF REFERENCE:

- 6.1 Appendix A: Multichoice licence conditions
- 6.2 Appendix B: Workplace Skills Plan
- 6.3 Appendix C: Staff Development and Equity Plan Report
- 6.4 Appendix D: Must Carry Regulations
- 6.5 Appendix E: Subscription Broadcasting Services Regulations
- 6.6 Appendix F: Licence Fees Regulations
- 6.7 Appendix G: USAF Regulations
- 6.8 Appendix H: South African Television Content Regulations
- 6.9 Appendix I: South African Music Content Regulations
- 6.10 Appendix K: Code on People with Disabilities
- 6.11 Appendix L: Sports Broadcasting Rights Regulations

¹⁹ Appendix K: Sports Broadcasting Regulations