



Independent Communications Authority of South Africa
350 Witch-Hazel Avenue,
Eco Park, Centurion

By email: nhangwani@icasa.org.za;
CodeforPwDsCommittee@icasa.org.za

Attention: Ms Nditsheni Hangwani,

22 July 2020

Dear Ms Hangwani,

INVITATION TO PROVIDE WRITTEN COMMENTS ON THE DRAFT CODE FOR PERSONS WITH DISABILITIES REGULATIONS

- 1 On 12 June 2020, the Independent Communications Authority of South Africa (ICASA) published the draft code for persons with disabilities regulations (regulations) following public consultative processes held over the previous years. Interested persons were given 30 working days from the date of publication to submit their written comments.
- 2 The National Association of Broadcasters (NAB) is the leading representative of South Africa's broadcasting industry, representing the interests of all three tiers of broadcasters. Our members include the public

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The NAB is a voluntary industry association funded by its members





broadcaster, commercial and community broadcasters, as well as signal distributors, training institutions and industry associates.

- 3 The NAB television members are committed to serving the needs of persons with disabilities and ensuring that their broadcasting services are accessible to persons with hearing impairments. To this end the NAB thanks ICASA for the opportunity to make inputs and recommendations to ensure the needs of persons with disabilities are addressed in a feasible manner.
- 4 Notwithstanding the preceding paragraph, the NAB is concerned with the duplication in quotas with respect to subtitling and closed captioning particularly as both these services are intended to ensure accessibility of television content for persons with hearing impairments. This is especially concerning when considering the overlap in the definitions of subtitling and closed captioning as provided in the regulations.
- 5 The regulations define subtitles as a service by which both the audio dialogue and sound representations of a video programme are made visible by the user via on-screen text that is synchronized with the audio content. Closed captioning on the other hand is defined as a process of converting the audio content of television broadcast or other production into text and displaying the text on a screen or monitor. The reference to “audio content” arguably encompasses both dialogue and sound representations. It is on this basis that the NAB respectfully recommends that there should be only one quota, either subtitling or closed captioning.
- 6 The NAB notes that paragraph 8 requires that a television broadcasting service licensee must prepare a three-year accessibility plan which sets out the measures a licensee will implement to promote accessibility of their



services for persons with disabilities. The NAB respectfully submits that the quotas should suffice as they provide an indication of the percentages to be achieved over the prescribed periods. The NAB respectfully recommends that the requirement of an accessibility plan be removed altogether as ICASA can monitor the level of accessibility of television broadcasting services on the basis of the quotas.

- 7 The NAB has previously expressed concern regarding some of the terminology used in the draft regulations. The definition of “closed captioning” makes reference to “other production” without giving an indication of what would constitute such for purposes of these regulations, therefore making it difficult to determine what would qualify as ‘other content’.
- 8 The NAB is further concerned that the fine for non-compliance is still set at R5 million notwithstanding our previous appeal on this aspect. We are especially concerned that the manner in which clause 10 is phrased implies that ICASA may impose a fine for non-compliance from the very first year of the regulations coming into effect. As previously submitted, we request that the fines be imposed only from year three at the earliest, to enable broadcasters time to ramp up their services as the 18 months provided in paragraph 13 are not sufficient. In the proposed three-year period, ICASA can monitor licensees on the basis of their efforts to implement the regulations.
- 9 The NAB respectfully recommends that the Compliance Procedure Manual particularly form 7C, be aligned with the final Code Regulations to ensure consistency of reporting obligations.
- 10 In conclusion, we encourage ICASA to assess the current efforts by broadcasters in order to determine the extent of accessibility services



currently implemented by television broadcasting service licensees. This will enable ICASA to develop regulations which are aimed at addressing the specific gaps identified.

- 11 The NAB thanks ICASA for the opportunity to make its written submission and we look forward to the completion of the process and subsequent implementation of the final regulations.

Yours sincerely,

Nadia Bulbulia

Executive Director

Sent electronically without signature