



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

Attention: Mamedupe Kgatshe

By email: MKgatshe@icasa.org.za
rarc@icasa.org.za

7 June 2021

Dear Ms Mamedupe Kgatshe,

Discussion document on the review of the Independent Broadcasting Authority (Advertising, Infomercials and Programme Sponsorship) Regulations, 1999 (Regulations)

1. The NAB welcomes the publication of the Discussion Document on the Regulations following previous engagements with the industry as part of the review process which has been on-going over the last few years.
2. The proliferation of online content distribution platforms has paved the way for online advertising which has increased exponentially. This has in turn increased competition for advertising revenue between traditional broadcasters, video sharing platforms and other online platforms. Online advertising has already begun to significantly erode broadcasters' advertising

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market share. Studies anticipate that online advertising will surpass television advertising in 2022.¹

3. The NAB notes that ICASA's Discussion Document has highlighted an increase in advertising and infomercials revenue for a period of 5 years, however, it is imperative that this data be assessed within the context of overall industry developments, the costs associated with broadcasting services (such as investments in content, technology, infrastructure), as well as the growth of online advertising.
4. This iteration of the review process comes at a time when the Department of Communications and Digital Technologies is proposing an overhauled and progressive licensing and regulatory framework through the Draft White Paper on Audio and Audiovisual Content Services Policy Framework (Draft White Paper) to ensure *inter alia* regulatory parity, legal certainty and to promote increased investments. Importantly, the Draft White Paper acknowledges the need to ensure consistent application of advertising regulations across all content services, including online platforms. The Draft White Paper also recommends a more flexible approach to the regulation of advertising.
5. The NAB is encouraged that ICASA's Discussion Document recognises the rapid evolution of the broadcasting sector. However, it seems ICASA's intended approach is to continue to regulate advertising in a conventional manner, one that is seemingly not informed by market conditions in an environment where regulatory parity is still under policy consideration. Such an approach is likely to adversely impact the sustainability of the broadcasting sector which is primarily dependent on advertising revenue.

¹ NAB State of the Broadcasting Industry Report 2015 - 2018 pg.21



6. Whilst the NAB supports the policy review process currently underway and is mindful of engagements between the policy maker and the regulator, we are concerned that reviewing the current Regulations at this juncture may create further inhibitors to sector investment and growth. Should the Authority seek to proceed with this review, the NAB recommends a light-touch approach to enable the industry to grow and innovate, as recommended in the Draft White Paper
7. The NAB therefore respectfully submits that ICASA balances the interests of broadcasters and the public interest in assessing whether this review is necessary at all at this stage.
8. We also propose that an independent economic review be conducted in advance to gauge the appropriateness of any further regulatory interventions in the revenue streams of the broadcasting sector.
9. The NAB is of the view that greater flexibility is required given the prevailing economic circumstances - that de-regulation be considered and carefully designed to address any public interest concerns regarding advertising, infomercials, and programme sponsorship. The NAB recognises that radio frequency spectrum remains a finite resource. However, spectrum cannot continue to be the point of reference for stringent regulations.
10. Furthermore, the Discussion Document notes that whilst the current regulations do not expressly prohibit programme sponsorship for news in respect of radio broadcasters, ICASA has previously encouraged radio broadcasters to phase out this practice. The NAB respectfully recommends that ICASA engages radio broadcasters on the financial implications of such a phase-out as well as the most feasible transitional period.



11. In conclusion, the NAB members remain committed to the principles of responsible advertising, consumer protection and importantly, child protection in line with the principle articulated in section 28 of the Constitution. We look forward to further participation in this process.

Yours Sincerely

Nadia Bulbulia
Executive Director

Sent electronically without signature