

highly speech-led regardless.<sup>459</sup> The applicant submitted that the balance between music and speech during peak times would be between 70% to 90% speech and 10% to 30% music, while the balance between music and speech during its non-peak times would be 60% to 100% speech and up to 40% music.<sup>460</sup> The applicant submitted that the music that it would broadcast would be contemporary music which is associated with featured sporting events.<sup>461</sup>

63.9.2 The applicant submitted further that it will give precedence to live sport, commentary, discussions and listener interaction on any aspect of sport.<sup>462</sup>

63.9.3 According to the applicant, all presentations will be personality-driven and will include a globally approved format of up-to-date reports, results and interviews with various sport personalities. Listeners will be encouraged to voice their opinions on the topics of the day.<sup>463</sup>

#### 63.10 News

The applicant indicated that it would broadcast general international, national and local news on the hour and the latest sports news every half hour. The local sports news will be broadcast for three minutes whereas national and international news (in respect of sporting and general news) will be broadcast for four minutes every hour. The applicant indicated that it would source its news from its own correspondents, wire services and the internet, amongst others.<sup>464</sup> The applicant submitted further that it might utilise some of the journalists and news stories from local community papers owned by Uhuru Communications as part of its news feed.

#### 63.11 Current Affairs

The applicant submitted that it intends to broadcast current affairs news relevant to sporting events, players and matters of interest to regional listeners, including topics on the role of sports, funding, points of controversy, and issues of administration. The applicant indicated that this current affairs content will take up to 60% of the

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<sup>459</sup> SLAM (WC) application: p 104.

<sup>460</sup> SLAM (WC) application: Appendix 13, p 104.

<sup>461</sup> SLAM (WC) application: pp 105 - 106.

<sup>462</sup> SLAM (WC) application: p 94.

<sup>463</sup> Ibid.

<sup>464</sup> SLAM (WC) application: p 108.

broadcast time.<sup>465</sup>

63.12 Compliance with Content Regulations

The applicant's proposed broadcasting service will give precedence to live sport, commentary, discussion, and listener interaction on every aspect of the relevant sport. The applicant submitted, however, that 30% of its music broadcast will be South African.<sup>466</sup> The Authority is satisfied that the applicant will meet the requirements of the Content Regulations.

63.13 Language

The applicant indicated that the proposed principal language of broadcast would be English. The applicant submitted, in this regard, that 95% of the people within the licensce area understand English and that listeners of its proposed broadcasting service will be allowed to speak in their language of choice when calling into the radio station, but that the presenters will respond in English.<sup>467</sup>

63.14 Demand, need and support

63.14.1 The applicant indicated that its target market for the coverage area is the LSM 7- 10 group, which comprises of 1 518 000 people interested in sport. The applicant submitted that its programming will appeal to a broad range of the population, from teenagers to adults of all races and gender who have an interest in sport. The applicant provided a breakdown of its estimated target audience in gender and age group.<sup>468</sup>

63.14.2 The applicant indicated that research on the need and demand for its proposed broadcasting service was conducted on its behalf by Kuper Research. The market research conducted by Kuper Research was mainly secondary research based on the following databases in the industry: AMPS (with a sample size of 24 527), RAMS (with a sample size of 20 466), TAMS (with a sample size of 4 597) and Future Fact (with a sample size of 2 500). The applicant indicated that the specific objectives of the research were to:

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<sup>465</sup> SLAM (WC) application: p 109.

<sup>466</sup> SLAM (WC) application: p 105.

<sup>467</sup> SLAM (WC) application: p 113.

<sup>468</sup> SLAM (WC) application: pp 115 and 120.

obtain listenership data establishing the current behavior pattern of radio audiences in regard to selection of station, frequency of listening, and days and times of listening; establish interest levels in different sports among key sectors; and identify lifestyle issues and activities that could point to programming direction. As such, the applicant did not conduct its own primary research as required by the ITA and did not sample the proposed format of the radio station within the target market. Accordingly, the applicant did not demonstrate its appeal to the target market or the appeal of a purely sports and lifestyle focused radio station.

63.14.3 The applicant submitted that its research indicated the following:

63.14.3.1 Over 40% of the people who were surveyed have been to a sporting event in the last twelve months.

63.14.3.2 Some 112 000 people already listen to a talk radio format which indicates the popularity of this type of programming format.

63.14.3.3 There are no existing broadcasting services comparable to the applicants proposed broadcasting service format.

63.14.3.4 Leading advertising agencies welcomed the applicant's proposed broadcasting service and indicated that they are of the view that it is valuable, sustainable and that they would advertise on the applicant's proposed broadcasting service given the appropriate product.<sup>469</sup>

63.14.4 The applicant submitted that, while there is significant viewership of television sports programmes, the selection of sports is limited to "mainstream" sports such as rugby, cricket and soccer. The applicant's proposed broadcasting service, however, will showcase a broader range of alternative sports which will promote the sport's popularity. In addition, the applicant's proposed broadcasting service will provide in-depth analyses, commentaries and interviews not currently available through existing television and radio programmes. The applicant further submitted that its proposed broadcasting service will bring a "democracy" to sports and sports

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<sup>469</sup> SLAM (WC) application: p 114.



commentary by allowing its listenership an opportunity to air their views and criticisms. This, according to the applicant, will create a situation where senior decision makers are accountable to the public.<sup>470</sup>

63.14.5 The applicant attached a document listing prime stations in the Western Cape and indicating the number of listeners in respect of the stations, as well as their respective advertising revenue. The stations include KFM, Good Hope, Heart FM, Tygerberg and Cape Talk. Of the five stations, the only station with a talk-show format is Cape Talk which does not cover sport extensively. As such, the applicant indicated that it would focus on this untapped market.<sup>471</sup>

63.14.6 The applicant indicated that there is a wide range of magazines, newspapers and radio stations that cover sports and sporting related content, but that no existing broadcasting service in the Western Cape offers interactive programming, lifestyle programming or live updates on sporting events either locally or internationally.<sup>472</sup> At the public hearings, the applicant submitted that it has a partnership with investors who have sporting rights for news and interview flashes that would be utilised for match build up, analysis and post-match interviews.

63.14.7 In the Authority's assessment, the applicant's use of only secondary data also serves to indicate only an interest for a sports radio station but does not show need or demand for the applicant's service in the proposed coverage area.

63.14.8 For the reasons described above, the Authority is not satisfied that the applicant demonstrated adequate demand, need and support for its proposed broadcasting service or that the proposed service will cater for the tastes and interests of the people living in the coverage area and, accordingly, is of the view that the applicant did not comply with section 51(a) and (b) of the Act.

#### 63.15 Complaints and code of operation

The applicant submitted its complaints procedure, which sets out the steps to be

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<sup>470</sup> SLAM (WC) application: p 117.

<sup>471</sup> SLAM (WC) application: pp 122 - 124.

<sup>472</sup> SLAM (WC) application: pp 121- 125.

followed to deal with any complaint. The Authority is satisfied that the applicant has complied with the requirements of the ITA in this regard.<sup>473</sup>

63.16      Business plan

63.16.1      Section 5 of the ITA required applicants to provide information on finance, and attach proof of, amongst others, the business plan, financial projections, funding and financial requirements and sources.

63.16.2      The applicant submitted a business plan, which included financial statements, as required in terms of the ITA. The applicant submitted a confidentiality request in respect of its business plan and financial statements, which was granted by the Authority.

63.16.3      In the Authority's assessment, the applicant did not provide what was considered a proper business plan. In this regard, the business plan submitted by the applicant did not contain sufficient information for the Authority to fully understand the applicant's service offering (i.e. the business plan supporting the SLAM (WC)). Further, the business plan submitted by the applicant was identical to the business plan that was submitted in support of an I-BS licence in both Gauteng and KwaZulu-Natal, despite the obvious variances in market size and demographics. Further, in the Authority's assessment, there is no synergy between the business plan and the financial statements submitted by the applicant (i.e. aspects of the business plan, such as marketing and financial plans supported by revenue and market projections, are not provided).

63.17      Projected financial statements

63.17.1      In the Authority's assessment, the applicant submitted the same pro forma financial statements across the regions of Gauteng, Kwazulu-Natal, and Western Cape, in which it applied for an I-BS licence, despite the vast variations in market size, demographics and listenership. Only an income statement projecting over a 5 year period was submitted by the applicant.<sup>474</sup> The format of the income statement, however, is not in accordance with Financial Reporting Standards and, as a result, a comprehensive analysis

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<sup>473</sup> SLAM (WC) application: pp 126 - 128.

<sup>474</sup> SLAM (WC) application (Confidential Bundle): pp 4 - 5.

could not be conducted in respect of the applicant's financial viability and sustainability.<sup>475</sup>

63.17.2 The incomplete projected financial statements submitted by the applicant also made it impossible for the Authority to conduct a full analysis, thus rendering any determination regarding the applicant's financial viability inconclusive.

63.18 Funding (financial requirements, sources and financing plans)

63.18.1 The funding requirement in respect of the Western Cape is R44 million.<sup>476</sup> However, in the Authority's assessment, the applicant provided insufficient proof of funding. In this regard, the applicant indicated that one of its shareholders, Moloko Investments (Pty) Ltd, would provide 50% of the required funding, while the NEF would provide the remaining funding. A funding letter from the NEF, which confirmed that the applicant had approached the NEF for funding, was submitted by the applicant in this regard.<sup>477</sup> However, the Authority was not satisfied that the funding from the NEF was approved, and the applicant did not clearly indicate whether the funding would be available. Subsequent to the public hearings, the applicant proposed a new funder and a new funding structure. The Authority exercised its discretion not to accept this new information which, in the Authority's assessment, altered a material part of the applicant's application.

63.18.2 Further, although the pro forma financial statements submitted by the applicant in respect of each of the various regions in which it applied for an I-BS licence were identical, the applicant's funding requirements varied within each coverage area. It was not clear to the Authority why there was such a variation in funding requirements in the different licence areas.

63.19 Technical

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<sup>475</sup> SLAM (WC) application: pp 1 - 10.

<sup>477</sup> SLAM (WC) application: p 3.



- 63.19.1 The applicant provided details of its proposed signal distribution service and indicated that Sentech will be contracted in this regard. <sup>478</sup>
- 63.19.2 The applicant has indicated that they will be utilising a new site for its sound broadcasting. <sup>479</sup> The applicant did not include further details regarding the site as required by the ITA such as the location of the site by geographic coordinates, its ownership, the present use, actual antenna pattern, reasons for selecting the site, and information on investigations that have been made regarding the suitability of the site to accommodate the proposed service. Furthermore, the applicant did not indicate whether the local authority, civil aviation planning permissions and environmental impact assessment approvals had been obtained.
- 63.19.3 The applicant listed the principal items and configuration of the transmitter equipment and indicated that Sentech would be responsible for ensuring compliance with the Authority's technical specifications. <sup>480</sup>
- 63.19.4 The applicant indicated that Sentech would be contracted for transmitter maintenance. <sup>481</sup>
- 63.19.5 The applicant provided the location of the proposed studio <sup>482</sup> but did not provide a rough plan of the studio as required in the ITA. The applicant provided full details relating to the studio maintenance as required. <sup>483</sup>
- 63.19.6 The applicant did not, in the Authority's assessment, provide sufficient information to support the technical feasibility of the proposal. In this regard, the Authority distinguished between the technical proposal submitted by the applicant in this application and the technical proposal submitted with the SLAM Gauteng application. In the Gauteng application, SLAM Gauteng provided the details of an existing site which it intended to use for signal distribution. However, the applicant in the Western Cape opted for a greenfield site, but did not provide any details of the proposed

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<sup>478</sup> SLAM (WC) application: p 129.

<sup>479</sup> Ibid.

<sup>480</sup> SLAM (WC) application: p 130.

<sup>481</sup> SLAM (WC) application: p 131.

<sup>482</sup> SLAM (WC) application: p 132.

<sup>483</sup> SLAM (WC) application: p 134.

site.

63.20

Decision and reasons

63.20.1

The Authority has decided not to grant the applicant a commercial sound broadcasting licence in the metropolitan area of and surrounding Cape Town for each of the following reasons considered separately, each of which is regarded as constituting adequate reason for turning down the application:

63.20.1.1

In the Authority's assessment, the key individuals who would be appointed to manage the applicant's affairs during its operations have the necessary capability and expertise to operate a commercial radio station. The Authority was satisfied that the applicant's ownership structures as described in its application would contribute to the diversity of ownership of broadcasting services in South Africa given that none of the applicant's shareholders presently has an interest in any other broadcasting licensee. However, the information supplied by the applicant in respect of its financial means, business record and commercial viability, as contemplated in section 51(e) of the Act, was inadequate and did not enable the Authority to analyse and assess the commercial viability of the applicant's proposal. The applicant also submitted identical financial statements in respect of each of the licence areas for which it applied for a licence, and did not appear to consider the distinctions in market size, demographics and listenership within each of these coverage areas. For these reasons, the Authority was not satisfied the applicant's proposed broadcasting service will be commercially viable or that it will have good prospects of success.

63.20.1.2

The applicant could not provide the Authority with proof of funding and, as a result, the Authority was not satisfied that the applicant had the necessary finance to run the proposed broadcasting service.

63.20.1.3

In the Authority's assessment, the applicant's use of only secondary data also serves to indicate only that there is a level of interest in a sports radio station but does not prove need or demand for the applicant's service in the proposed coverage area. The applicant has



to an extent tailored its research to the particular province in terms of the current broadcasting services in the market i.e. Cape Talk on the MW platform that they will be broadcasting on and its sustainability, although this does not address the overall support and need for the proposed broadcasting service in the province. For the reasons described above, the Authority is not satisfied that the applicant demonstrated adequate demand, need and support for its proposed broadcasting service or that the proposed service will cater for the tastes and interests of the people living in the coverage area and, accordingly, is of the view that the applicant did not comply with section 51(a) and (b) of the Act.

#### 63.20.1.4

In the Authority's assessment, the applicant's proposed service is different to existing services and would contribute to the diversity of radio programming that is presently available in the coverage area, given that no radio station is presently providing a comparable sports-focused service. However, the Authority, after considering the applicant's market research, is not satisfied that the applicant has demonstrated how its market research is linked to its business plan. The applicant's business plan focuses mainly on the success of similar international broadcasting services as opposed to the specific market carved out in the applicant's market research. In this regard, it appears that the entity appointed to perform the applicant's market research relied on secondary data that was already available and not on primary research as required in terms of the ITA. The research contained no survey information taken from sampled potential listeners, who were given an opportunity to listen to the applicant's proposed programming and format, but instead used existing information from AMPS, RAMS and TAMS.

#### 63.20.1.5

In the Authority's assessment, the applicant did not demonstrate that there is a need for the proposed service, as provided for in section 51(b) of the Act. While the applicant's proposed service is clearly different to any other existing service and while the applicant did submit that a proportion of the applicant's target audience have an interest in sports, the applicant did not demonstrate that the absence of the applicant's proposed programming format indicates a need for it, particularly having regard to the other sources of news and

information on sport, including newspapers, magazines and television. As such, in the Authority's assessment, the applicant did not clearly demonstrate that its target audience in the metropolitan area of and surrounding Cape Town requires or would be interested in additional sports and lifestyle programming on radio.

63.20.1.6

The Authority was further unable to determine whether the applicant will attract advertising to sustain its proposed broadcasting service and, accordingly, was not satisfied that the proposed service would be commercially viable, given that the applicant used identical research for three different provinces.

63.20.1.7

The applicant did not provide sufficient information to support the technical feasibility of its proposal. In this regard, the Authority distinguished between the technical proposal submitted by the applicant in this application and the technical proposal submitted with the SLAM Gauteng application. In the Gauteng application, SLAM Gauteng provided the details of an existing site which it intended to use for signal distribution. However, the applicant in KwaZulu-Natal opted for a greenfield site, but did not provide the details of the proposed site.

63.20.1.8

In the Authority's assessment the applicant's application, viewed holistically, did not meet the minimum requirements specified in paragraph 21 of the ITA and the Act.



Dr Stephen Mncube  
Chairperson

Date: 31/03/2014