



RESEARCH REPORT

Regulatory Framework for Community Broadcasting

2017

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ABBREVIATIONS

ACMA	Australian Communications and Media Authority
AMPS	All Media and Products Survey
BAI	The Broadcasting Authority of Ireland
BDU	Broadcasting Distribution Undertakings
BRACS	Broadcasting for Remote Aboriginal Scheme
BRC	Broadcasting Research Council of South Africa
BSA	The Austrian Broadcasting Services Act No. 110 of 1992 as amended
CBSC	Canadian Broadcast Standards Council
CCD	Canadian Content Development
CHD	Canadian Heritage Department
CRFC	The Community Radio Fund of Canada
CRTC	Canadian Radio-television and Telecommunications Commission
CSI	Corporate Social Investment
DAB	Digital Audio Broadcasting
DCMS	Department for Culture, Media, and Sport
DRM	Digital Radio Mondiale
DoC	Department of Communications
DTH	Direct to Home
DTT	Digital Terrestrial Television
GCIS	Government Communication and Information System
ECNS	Electronic Communications Network Service
ITA	Invitation to Apply
MDDA	Media Development and Diversity Agency
NABSA	National Association of Broadcasters of South Africa
NCRF	The National Community Radio Forum
NEMISA	National Electronic Media Institute of South Africa
Ofcom	The Office of Communications
PBS	Public Broadcasting Services

PSA	Public Service Announcements
RAMS	Radio Audience Measurement Survey
SAARF	South African Audience Research Foundation
SADIBA	South African Digital Broadcasting Association
SMMEs	Small, Medium and Micro Enterprise Businesses
TAMS	Television Audience Measurement Survey
TBN	Trinity Broadcasting Network
USAASA	Universal Service and Access Agency of South Africa

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EXECUTIVE SUMMARY

This research report on *Regulatory Framework for Community Broadcasting Services* will inform the Discussion Document on the same subject. The research was conducted using a combination of methods, including desktop research, benchmarking and stakeholder interviews.

There are currently 280 community broadcasting services (275 community sound and 5 community television services). According to AC Nielsen and All Media and Products Survey (AMPS) data, community broadcasting services collectively take up an audience share of 6.3 million people in South Africa. However, this has not necessarily translated into advertising revenue, for example Community TV has a 9.5%¹ reach but only yield an advertising spend less than 1%. Likewise, Community radio reaches 25%² of the population but only receives 2% of the advertising spend.

At face value this can be attributed to the profile of the community sector's audience, that is, this sector does not deliver audiences that are attractive enough to advertisers to derive revenue that is comparable to commercial and public broadcasting services. However, factors contributing to the success of the community broadcasting sector are more complex.

The study highlights the fact that the community broadcasting sector's challenges emanate from a lack of corporate governance, management capacity and revenue diversification strategies. There is also a limited concerted institutional support, capacity building and funding strategies for community broadcasting in South Africa. Currently the Authority's regulation of corporate governance, financial accountability and community participation is limited. Given the time and resources expended on addressing compliance challenges associated with this sector, it may be necessary for the Authority to consider Regulations or guidelines to address these shortcomings.

¹ Television Audience Measurement Survey (TAMS)

² All Media and Products Study (AMPS) 2015 AB. The exact number of viewers / listeners vary depending on the research: RAMS vs AMPS)

SECTION A: INTRODUCTION

1. BACKGROUND

1.1 The purpose of the report

This research report sets the basis for the *Discussion Document on the Regulatory Framework for Community Broadcasting Services* ("the Discussion Document"). The Independent Communications Authority of South Africa ("the Authority") will use the Discussion Document to initiate a section 4B³ inquiry into the current ICASA framework for regulating community television and radio.

The report is structured into four sections:

- An introductory section outlining the background, the research methodology applied and a situational analysis of the status of community broadcasting in South Africa;
- A policy and regulatory context outlining the empowering legislation and institutional arrangements;
- A section on the findings of the research conducted which includes market research, stakeholder interviews and benchmarking; and
- A concluding section outlining recommendations for further consideration by way of a Discussion Document.

1.2 The Rationale for the Review

The community broadcasting sector has experienced various challenges from its early days, when community sound services were initially licensed in 1994. Many of these challenges persist despite numerous support measures implemented by government agencies and industry bodies. Although there are some exceptions, the majority of community stations struggle to sustain themselves and to comply with their regulatory obligations and license conditions. Challenges centre mostly around governance, operational capacity and financial sustainability. Most stations lack revenue diversification strategies and depend largely on advertising revenue,

³ Section 4 B of the Independent Communications Authority of South Africa Act, 13 of 2000, as amended.

government grants and donor funding, and compete with more established commercial and public broadcasting services for limited broadcasting advertising revenue.

The Authority has initiated this process to address the following shortcomings in the regulatory and operational environment of the community broadcasting sector.

Disparate regulatory policies. The regulatory framework is mainly contained in community broadcasting related position papers, including the Position Paper on Community Television published in 2004 (Government Gazette No 27036). However, developments in the market have resulted in the promulgation and intermittent amendment of regulations to facilitate licensing and other operational requirements of this sector.

Examples of these include;

- The Processes and Procedures Regulations for Class Licences published in 2010 (Government Gazette No. 33297);
- Moratorium in terms of applications for class community sound broadcasting service licensees and applications for frequency spectrum for purposes of providing a community broadcasting service, published in 2015 (Government Gazette 39226); and
- Notice of amendment to the Regulations on Processes and Procedures Regulations for Class Licences published in 2016 (Government Gazette 39874)

There is thus a need to consolidate and streamline regulations governing this sector to improve regulation and by default operation in this sector.

- **The community television licensing** preceded completion of the above mentioned regulatory framework for community television. Initially only Trinity Broadcasting Network (TBN)⁴ was licensed by the former Ciskei government prior to the establishment of the IBA. It was granted permission to continue

⁴ With the inception of the IBA in 1994 Trinity Broadcasting Network (TBN) was the only licensed community television service. It began broadcasting pre-1994 in the former homeland of Ciskei and "grand-fathered" by the IBA in 1994

broadcasting on the terms of its license by the predecessor to ICASA, the Independent Broadcasting Authority (the IBA) in 1994⁵. The rest of community broadcasting licensees operated using event licenses⁶. These licensees, including Soweto TV, Tshwane TV and Cape TV were only formally licensed in 2007.

Broadly, the framework for community television shares some similarities with community radio and are regulated along similar lines. However, given the higher financial and operational requirements, the community television sector may warrant a different approach.

- **The class registration process used to license community broadcasting services has had unintended consequences**, including proliferation of services, duplication, fragmentation of audiences, which could adversely affect sustainability of the community broadcasting sector. In order to address these the Authority developed new regulations, mentioned above. Specifically, the Authority in 2015 amended the Processes and Procedures Regulations for Class Licenses⁷, with the intention to facilitate a more orderly licensing process for community broadcasting services.

These amendments make provision for two window periods for applications for community broadcasting service licences - which can only be done with an Invitation to Apply (ITA) for spectrum licence⁸. The Authority also issued a moratorium on applications for community sound broadcasting services and radio spectrum licences to address congestion in this band⁹. It may be necessary for the Authority to examine the legal basis and to consolidate these into a single framework. This in turn will facilitate an orderly strategic licensing approach to licensing community broadcasting services.

5 ICASA, Community Television Broadcasting Services Position Paper. 30 November 2004.

6 ICASA, Community Television Broadcasting Services Position Paper. 30 November 2004.

7 ICASA, Notice of amendment to the Regulations on Processes and Procedures Regulations for Class Licences, Government Gazette 39874, Government Notice 157 of 2016.

8 ICASA, Notice of amendment to the Regulations on Processes and Procedures Regulations for Class Licences, Government Gazette 39874, Government Notice 157 of 2016.

9 ICASA Notice of moratorium in terms of applications for class community sound broadcasting service licensees and applications for frequency spectrum for purposes of providing a community broadcasting service, Government Gazette 39226, Government Notice 918 of 2015.

- **Governance and operational deficiencies** in this sector which appear to arise from lack of capacity, resourcing strategies and concerted support mechanisms for community broadcasting services. It might be necessary for the Authority to consider additional regulatory mechanisms to strengthen corporate governance and management practices in the community sector.
- **Financial sustainability** is one of the above deficiencies and is characterized by overreliance on advertising revenue. This necessitates sustainable funding and revenue diversification strategies by the sector. However, in the long term this may also warrant a revision of policy to avail alternative sources of funding and to streamline and coordinate support mechanisms for community broadcasting services.

It is anticipated that the outcome of the review will result in consolidated regulations, reviewed licensing framework and operational guidelines for the community broadcasting sector. However, some of the root causes of the above challenges particularly those pertaining to licensing, funding and institutional support may require policy and legislative changes, and to this end the Authority can invoke section 4(3) (a) of the ICASA Act¹⁰ to make recommendations to the Minister on related policy matters and possible amendments to legislation. Therefore, any matters arising from this review that fall within the purview of the policy maker will be approached accordingly.

1.3 Research Methodology

The research was conducted using the following sets of methods:

- A desktop research study providing a situational analysis of community broadcasting sector's status quo. The research conducted considered the challenges faced by the sector, institutional support mechanisms and international best practice in terms of the regulatory, licensing and enforcement framework applied in international jurisdictions.

¹⁰ Independent Communications Authority of South Africa Act No.13 of 2000

- An analysis of the community broadcasting market and revenue, based on industry research databases (including South African Audience Research Foundation (SAARF) and AC Nielsen) as well as licensees' financial information obtained from internal ICASA monitoring reports.¹¹
- Stakeholder interviews with community broadcasters, academia, associations and advocacy bodies. These interviews were based on the above mentioned desktop research, and focused on obtaining the stakeholders views on the framework and mechanisms of addressing issues and operational challenges identified in the desktop research. A list of the Stakeholders consulted is attached as Annexure A.

11 Limitations in respect to the availability of financial and operational records from the licensees under considerations within the Authority provided challenge. This obstacle was overcome by using industry research databases.

2. SITUATIONAL ANALYSIS

2.1 Introduction

The situational analysis was conducted to establish the status quo in the South African community broadcasting sector and to highlight the regulatory and operational challenges that the regulatory review process must address.

2.2 Operational and Compliance Challenges

The community broadcasting sector has generally experienced operational and sustainability challenges since its inception in 1994. Many of these challenges persist despite numerous support measures implemented by government agencies and industry bodies. Although there are some exceptions, governance, capacity, financial sustainability and compliance challenges are prevalent in the majority of community stations.

Although the principles of community broadcasting should apply equally to both radio and television there are slight differences in the nature of the challenges experienced by these two sectors. They are thus considered separately in the sections below.

2.2.1 Community Radio

Corporate Governance

The corporate governance is a major challenge in community radio. This takes many forms but can mainly be attributed to lack of management and technical capacity as well as community contestation for resource, and often finds expression in compliance challenges. Examples include;

- Disregard of stations' community participation mandate, founding principles, Constitutions, regulations and conditions of license;
- Exclusion of community members from ownership and community participation in the affairs of stations; and

- Lack of understanding of the roles and responsibilities that separate board members and management teams, which has led to antagonistic relations between management, boards and community members¹².

Financial Management

Financial mismanagement at stations can be attributed to poor corporate governance as well as limited financial management skills and systems. However, the lack of financial management and reporting systems can also be as a result of intentional concealment of corrupt activities. This together with inability to attract sufficient advertising are key factors that threaten viability and sustainability of community radio station. In the past the Media Development and Diversity Agency (MDDA) and the Government Communication and Information System (GCIS) have attempted to resolve this by channeling government advertising towards community media. However, these initiatives have been met with limited success¹³.

Further, mainstream advertising agencies are reluctant to invest in community radio, mainly due to perceptions of inadequate operational systems, lack professionalism and accountability in this sector¹⁴. Community radio stations do not have sector specific in-depth research platforms that provide stable and consistent insight into audience trends, a factor that is critical to solicit media buyers. Thus advertisers do not want to build relations with a sector that is unlikely to deliver return on their investment¹⁵. However, stations must also develop strategies to access other forms of revenue other than advertising to remain sustainable. This requires that they develop capacity and skills to do so.

Compliance

Community radio stations still find it difficult to comply with regulations and their conditions of licence, which has sometimes led to compliance hearings instituted by

12 ICASA Internal Compliance Reports 2013 and 2014

13 Farber, T. and Daniel, J. "The challenge of balancing community media and-spend" retrieved in <http://themediainline.co.za/2012/03/the-challenge-of-balancing-community-media-ad-spen/>. 2012.

14 Pather, J. The state and fate of community media: Prospects for enhancing media diversity. Paper for the Alternative Information Development Centre (AIDC) and Freedom of Expression Institute (FXI). JUNE 2012.

15 *ibid.* page 37.

the Authority. This intervention by the Authority has had mixed results with some improvements. However, some have not improved and compliance problems appear endemic in this sector and must be researched further to establish their root cause, that is, whether they are purely administrative or require regulatory or legislative changes.

The following are the most prevalent compliance issues:

- 1) Community participation. This is particularly prevalent in academic institutions. Licence conditions for community broadcasters provide for community participation through at least one Annual General Meeting (AGM) and two meetings that will address programming and programme related matters. However, stations fail to conduct AGMs, with the effect of there being no community participation for those periods. Without these AGMs it means the stations do not report back on operational and financial issues. In some cases, community participation is confined to Advisory Board meetings that do not extend to broader community members within the coverage area. These kind of board meetings are related to strategic matters of the stations and do not extend to coordinating structures that represent different community groups¹⁶.
- 2) Coverage area. This manifests in two ways, either extending beyond their coverage areas to extend their audience reach of insufficient coverage limited to primary coverage areas¹⁷.
- 3) Compliance with the Code for people living with disability (the Code). The majority of community radio stations still find it difficult to comply with the code, which requires all licensees to ensure that their services are available and accessible to people with disability. In many instances, non-compliance relates to lack of physical access to buildings for people with disability.

¹⁶ ICASA Radio Annual Compliance Report 2014.

¹⁷ *ibid*

4) Programming. Community broadcasters are intended to cater for specific broadcast needs and interest limited by community interest or geographic area. However, over time, various radio stations appear not to cater for specific needs of their community. Evidence points out that the broadcast language as outlined in licence conditions does not correlate with the actual broadcast language used by many community broadcasters. This is largely because radio stations do not update their research on community language developments. It also shows the importance of hosting regular AGMs, where community members can influence programming and broadcast language.

2.2.2 Community television

Governance Arrangements

Similar to community radio, community television sector is experiencing governance challenges that borders on undermining community broadcast mandate of being community owned and managerially run. A majority of the licensed community television stations do not embrace sufficient community involvement in their affairs, be it in content creation or in determining programming. This is primarily because of the outsourced management contracts that many partake in. These are commercial agreements entered into by community television stations and independent external companies. These contracts include amongst others, agreement to manage operational costs and revenue, to employ studio capacity, equipment and expertise that will manage advertising¹⁸. Content is predominantly determined and produced by staff employed by outsourced management companies.

These contract arrangements are not by themselves a challenge, what is not conventional is the nature of the agreements which have replaced the community in community broadcasting.

18 Howard, T. AND Mavhungu, J, and Can community television go the distance? Retrieved from <http://themediainline.co.za/2012/10/can-community-television-go-the-distance/>

Community members who are expected, as per sector mandate, to occupy decision making roles within the board and management structures, are replaced by the contractor's staff. Whether those staff members are from the community of broadcast or not, is not much of an issue. The disconcerting issue is that they are accountable to Urban Brew, which ideally is primarily focusing on generating revenue. In its defence of management contracts, one contractor argues that the community is not completely left out of the station affairs. Instead, in their view, closer working relations with community have been built and the relations have guaranteed that the community has control over editorial policy of the station¹⁹.

Funding

Funding for community media is a general challenge for community mediums. Community television is not immune from advertising deficiencies experienced by community radio. For community television, the matter of consistent funding and revenue generating avenues is more difficult when considering start-up costs and expenditure needed to ensure consistent broadcasting.

The cost of starting and managing a community television demands operational budget bigger than what is needed for community radio and as such the funding needs of the latter cannot be used to measure what the former needs. The funding needs of community television are higher because of the level of expertise and more human capacity needed for specific roles in managing finances and content production²⁰. Whereas for a community radio station, though production roles need experts as well, they can train and use less volunteers on a comparative basis.

In addition to the challenge of sourcing funding needed for start-up and operational costs, community television licensees must compete with public, commercial and other community mediums for limited advertising and sponsorship share available. Stations compete from a disadvantaged position when considering that they are fairly new, while competitors have long-standing relations with advertisers. With regards

¹⁹ ibid

²⁰Investigating the appropriate model for implementing community TV in South Africa. Report prepared by Sol Plaatje Institute for Media Leadership at Rhodes University for the Department of Communications. 30 January 2012

to national broadcasters, the competition is even more pronounced, since they cater for a more diverse audience than community broadcasters. The fact that a majority of community television stations are available on national platform using the Dstv subscription network, is not a factor since only subscribers and not general public access the station.

Other than advertising and sponsorship, donations and government grants are an additional funding mechanism legally permissible and available to be exploited by the sector. Government grants are essential and beneficial for all parties. Government has a responsibility to communicate with citizens and community television offers localized and focused communities²¹. Through government's grants, community television stations will have less commercial influence that has the potential to dilute the community mandate.

Though funding challenges are widely acknowledged, the vast potential for the sector has not gone unnoticed and is seen to be the primary reason for the involvement of external management services. The expertise brought in by private entities is geared towards maximizing advertising and other funding mechanism potential. Among the many reasons given by Urban Brew for their involvement in the sector, they are quoted affirming that they view the community licensees they manage as "long term profitable investment".²²

The anticipated profit potential of community television stations is behind the calls to regulate the sector differently from community radio. It has been proposed that the Authority must "...develop and publish regulations that will formally enable Community Television Broadcasting Service licensee to request and receive funding from private investors and local government. The Regulations shall outline the terms of reference for the Investment".²³ The proposal is geared towards normalising management contracts through developing regulatory framework that speaks to

21 ibid

22 Investigating the appropriate model for implementing community TV in South Africa. Report prepared by Sol Plaatje Institute for Media Leadership at Rhodes University for the Department of Communications. 30 January 2012 , page 11

23 Tshwane TV submission on Issues Paper on the Review of the Broadcasting Regulatory Framework towards a Digitally Converged Environment. April 2012.

existing community television model alongside that envisaged by legislation and prevailing regulatory framework.

2.3 Institutional support for community stations

Financial sustainability and technical capacity are the major challenges facing the community broadcasting sector. A range of organizations and agencies play an important role in promoting and facilitating community radio in South Africa. These include sector organizations, training institutions and production organizations. From a government perspective three key programmes, the Community Radio Support Programme, by the Department of Communications (DoC), the MDDA funding, capacity building and technical support and The National Electronic Media Institute of South Africa (NEMISA) teaching radio productions skills for community radio practitioners²⁴. The scheme focuses on the following areas of support;

- 1) Broadcasting infrastructure rollout to provide technical equipment to stations. Newly licensed and existing stations who have expressed interest at accessing the support programme are provided with new on-air and studio equipment or an upgrade of existing equipment. The equipment is installed by a DoC appointed service provider.
- 2) Signal distribution subsidy. The signal distribution subsidy offsets Sentech signal distribution signal fees for selected radio stations. Only radio stations that use Sentech's broadcasting signal distribution services qualify for subsidy. Self-providing radio stations do not qualify for the subsidy.
- 3) Programme production support on specific areas. Through the MDDA, the DoC supports the production of quality programming for community broadcasters. This support area has experienced various challenges that once halted the programme. The solution might include outsourcing it to be project managed by the MDDA.

²⁴ Impact of the Department of Communications' Community Radio Support Programme. 13 December 2011. Report by the Department of Communications'

- 4) Capacity building and training. The DoC provides capacity building projects to upskill community radio practitioners. These projects are provided directly by the DoC. Through the DoC, NEMISA also provides radio productions skills training to community radio practitioners.
- 5) Satellite network infrastructure. In this area of support, Community radio stations have been provided satellite equipment to uplink programmes. This was primarily to enable community radio broadcasters to have access to programmes from Parliament and GCIS. It was also meant to allow community radio stations to share programmes with each other²⁵.

At the time of this research the DoC was reviewing the Community Radio Support Scheme in order to amongst others, include Community Television and “provide clarity regarding the objective, nature and criteria for the support, including a clear value proposition for public funding”.²⁶ Although funding models do not fall within the ambit of ICASA’s mandate, the results of the review can be used to make recommendations to the Minister to consider in reviewing the scheme.

2.4 Conclusion

Many of the challenges facing the community broadcasting tier appear to be related to a lack of stringent governance, financial management and operational policies. The Authority also does not provide stations with guidelines on how to approach the issues of governance, community participation and programming, as these areas remain unregulated and pertain to the licensees’ business practices.

²⁵ ibid

²⁶ Scheme published on 01 July 2015 in Government Gazette 38947, General Notice 676.

The areas requiring intervention include the following:

- 1) Governance arrangements – regulations informing the expected sound corporate governance arrangements in line with legislation, regulatory policies and license conditions. These must clarify roles and responsibilities of the board/trustees/committees and management, and provide guidelines on management, financial and technical operations.
- 2) Community participation - Detailed regulations/ guidelines on mechanisms to enable active participation by community members in management, programming, language policy and operations.
- 3) Volunteers - at the core of community participation is volunteers. Without the services of volunteers, community participation will be restricted. Volunteers play a critical role in the community broadcast sector, mostly for licensees that do not have financial clout to attract skilled employees. Therefore, it is important to have regulatory policy that will give direction on the principles of volunteering and the protection of their rights. Licensees need to be administered like business enterprises, with a sense of professionalism and accountability. They should have human resources policies and such policies should deal with the remuneration of staff members, management policy for volunteers to deal with time management, scope of work and other pertinent issues.
- 4) Internal conflict resolution/complaints process frequent conflicts that compromise the operations of community broadcast services can be contained by legal requirements detailing internal conflict resolution/complaints process. The Authority must have regulations that will make it compulsory for community broadcast licensees to have policies and procedures which outline mechanisms to facilitate internal conflict resolution and how to handle public complaints.
- 5) The Authority needs to emphasize localness in community broadcasting which is the core mandate for the sector. This implies that part of the content broadcast should be sourced from the geographic area or community of interest.

SECTION B: POLICY AND LEGISLATIVE CONTEXT

3 POLICY AND LEGISLATIVE CONTEXT

3.1 Introduction

This review of community broadcasting must be in line with the guiding principles of broadcasting as set out in the Broadcasting Policy documents such as the Triple Inquiry Report²⁷ and the 1998 White Paper on Broadcasting ("The White Paper"), as well as related legislation. It is therefore necessary to explore the overarching policy principles and legislative framework that provide guidance to the Authority in approaching this review, as well as consider previous policy positions that have informed regulation and licensing of community broadcasting in South Africa.

3.2 Policy and Legislative Context

The Triple Inquiry and the White paper set out policy goals around community broadcasting. In the main the developmental role that community broadcasting services should play in relation to the two other tiers of broadcasting, namely, the commercial and public. The Triple Inquiry contemplates community broadcasting services as playing a complementary role with the other tiers towards the attainment of public interest that is, providing maximum diversity and choice of quality entertaining, educative and informative services. On the converse, the Authority is expected to create conditions where commercial and community services are incentivised to participate in the broadcasting environment and are provided with reasonable conditions for their success.²⁸ The White Paper on Broadcasting indicates that community broadcasting services should "provide a distinct broadcasting service dealing specifically with community issues which are not normally dealt with by other broadcasting services covering the area in question. It will be informational, educational, educative and entertaining. It will focus on the provision of programmes

27 Triple Inquiry Report. (Report on the protection and viability of public broadcasting services; cross-media control of broadcasting services; and local television content and South African music).

28 *ibid*, page 17.

that highlight grass-roots community issues, including developmental issues, health care, basic information and general education, environmental affairs, local interest matters and the reflection of local culture.”²⁹

The legislative basis for regulating community broadcasting is in turn captured in the Broadcasting Act no 4 of 1999 (The Broadcasting Act) and the EC Act, respectively, defining the parameters of what constitutes community broadcasting and outlining the class registration process for community broadcasting, and more importantly, emphasising the Authority’s public interest mandate.

Accordingly, the Authority is engendered to regulate broadcasting in the public interest as well as to encourage and create conditions for public, commercial and community broadcasting to be licensed and thrive. Amongst others, the Authority is guided by section 2 of the EC Act, which requires it to ensure the promotion of a diverse range of sound and television broadcasting services on a national, regional and local level which, when viewed collectively, cater for all language and cultural groups and provide entertainment, education and information³⁰.

Section 2 of the EC Act further enjoins the Authority with promoting the development of public, commercial and community broadcasting services which are responsive to the needs of the public³¹. It also obliges the Authority to ensure that, in the provision of public broadcasting services the needs of language, cultural and religious groups, and the needs of the constituent regions of the Republic and local communities, and the need for educational programmes are duly taken into account³². In doing so, the Authority must ensure that the integrity and viability of the public broadcaster is protected, investment in the industry is encouraged and fair competition between broadcasting licensees is secured³³.

The broad parameters set out in legislation are in turn amplified in, amongst others, the following Position Papers and Regulations by the Authority.

29 The Department of Communications, 1998, White Paper on Broadcasting Policy

30 Section 2 (s) of the Electronic Communications Act, 156 of 2005

31 Section 2 (r) of the Electronic Communications Act, 156 of 2005

32 Section 2 (u) of the Electronic Communications Act, 156 of 2005

33 Section 2 (t) of the Electronic Communications Act, 156 of 2005

- The Position Papers on Review of Community Sound Broadcasting Policy published in 2006 (Government Gazette No. 28919);
- The Position Paper on Community Television published in 2004 (Government Gazette No 27036); and
- The Processes and Procedures Regulations - Class Licences published in 2010 (Government Gazette No. 33297).

The implications of these regulations to the current review are explored in detail in the sections below.

3.3 Key Principles underlying community broadcasting

The scope of community broadcasting is defined in legislation and expanded in regulations. The legislative framework provides for geographically based or community of interest radio and television stations. Therefore, community broadcasting services are licensed to cater, respectively, for the needs of persons or a community whose communality is determined principally by their residing in a particular geographic area, and for the needs of a community with ascertainable common interest. The distinctive feature of the service is the common interest that makes such a group of persons or sector of the public an identifiable community³⁴.

Legislation further highlights the following principles underlying community broadcasting.

- 1) *Community Participation* - which is seen as the active participation of the community. In this instance the service is expected to, amongst others, encourage "members of the community served by it or persons associated with or promoting the interests of such a community to participate in the selection and provision of programmes to be broadcast in the course of such broadcasting service".³⁵
- 2) *Non-Profit Making* - the spirit in which the station operates is focused on serving the community. As such community broadcasting services may be

³⁴ Section 1 of the Electronic Communications Act, 156 of 2005

³⁵ Section 1 of the Broadcasting Act, 4 of 1999

funded by donations, advertising, sponsorships, grants and membership fees or a combination thereof. Furthermore, stations should be fully controlled by a non-profit making entity and carried out for non-profitable purposes.³⁶

3) *Community ownership and control* – Section 50 (c) The EC Act specify that applicants for community broadcasting services should demonstrate support of the relevant community or those associated with the promotion of the interest of such a community, “*which support must be measured according to such criteria as may be prescribed*”.³⁷ Accordingly the criteria for community participation is articulated in Regulation 7 of the amended Regulations regarding Standard Terms and Conditions for Class Licences as including the following:

- Ownership by community members with the Board of Directors as custodian of the licence.
- Encouraging the community within its coverage area to participate in ownership, management of television station or radio station.
- Management by person(s) tasked by the Board of Directors to ensure the licensee’s daily operation. However, given its non-profit status, this excludes engagement of private companies.³⁸

From a legislative perspective, community television shares similar traits with community radio. Legislation does not distinguish between community radio and television, but simply refers to community broadcasters. In the absence of community television Regulations, the Authority published a Position Paper on Community Television³⁹ which is complemented by other Regulations to serve as a guide for the Authority when imposing license conditions and in monitoring compliance for

³⁶ *ibid*

³⁷ Section 50 (c) of the EC Act.

³⁸ The amended Regulations regarding Standard Terms and Conditions for Class Licences under Chapter 3 of the ECA, published in Government Gazette No 39872, dated 30 March 2016.

³⁹ Position Paper on Community Television Broadcasting Services 2004, published in Government Gazette No 27036 of 30 November 2004.

community broadcasters. The position paper enunciates the principles of community television, ranging from administration to programming. Given the slight differences between the community radio and television operating environment it might be necessary to consider applying different principles for community television. This is considered in detail in the subsequent chapters.

3.4 Licensing Community Broadcasting Services

3.4.1 Class licensing process

Registrations for the provision of community sound broadcasting licences is provided for in terms of section 5.2, 5.5(b), 5.8 (b) read with subsections 16,17,18 (refusal and 19 (renewal) of the EC Act and the Processes and Procedure Regulations⁴⁰. The pre-amble elaborates on the process for submission of registrations. Specifying the initial administrative requirements as outlined in the preamble as well as the analysis of registrations. Furthermore, Regulation 7.2 of the Processes and Procedures Regulations sets out the requirements and documentation to be provided as part of a registration.

In considering any registration for a community broadcasting licence, the Authority is required, with due regard to the objects and principles as enunciated in section 2 of the Act and this particular regulation, to inter alia take into account;

- whether the applicant is fully controlled by a non-profit entity and carried on or to be carried on for non-profitable purposes;
- whether the applicant proposes to serve the interests of the relevant community and the nature of the community whether it is a geographic or community of interest;
- whether, as regards the provision of the proposed broadcasting service, the applicant has the support of the relevant community or those associated with or promoting the interests of such community, which support shall be measured according to such criteria as shall be prescribed; and

⁴⁰ Gazette No 33297 of 2010 as amended

- whether the applicant proposes to encourage members of the relevant community or those associated with or promoting the interests of such community to participate in the selection and provision of programmes in the course of such broadcasting service; and whether the members of the controlling entity reside within the coverage area.

However, the clauses of the EC Act on their own do not afford the Authority leeway to refuse or revoke licenses and also does not empower the Authority to refuse renewal especially if the licensee has a history of non-compliance. As a results some community licenses are renewed despite non-compliance⁴¹ .

- Section 17(3) requires that, subject to section 18, class licenses be issued within 30 days. It has to be noted that the 30-days period can be interrupted or delayed when the registrant has not submitted all the required information/ clarification of issues, therefore in line with section 17(4) of the EC Act the Authority must give a notice for the delay. The hurdle in the processes is the delay caused by the latter as registrants would have to submit and clarify certain information and most can go beyond 90 days.⁴²
- Section 18(1) only grants the Authority the right to refuse a license if the registration does not contain prescribed information, contains misleading information or the registrant is in contravention of the EC Act or other legislation in relation to other licenses issued.
- Section 18(2) further requires that the Authority notifies the applicant of this refusal within 60 days, stating reasons for such and provides the registrant an opportunity to correct and resubmit the application.
- Similarly, in terms of section 19 of the EC Act, the Authority does not have leeway to refuse a license renewal in the sense this section only requires the

41 Non-renewal and revocation of licenses are only possible if tested at Complaints and Compliance Committee (CCC) level whereby sanctions are stringent and recommend refusal or suspension for a certain time if certain conditions have not been fulfilled.

42 These challenges remain despite section 16 (2) of the Amended EC Act providing that registration for a class licence may be submitted in the manner prescribed by the Authority, and this process being outlined in Processes and Procedures Regulations for Class Licences, however, the Regulations have been amended in terms of Government Gazette 39874 Notice 157 of 2016 ("the amended Regulations")

Authority to update its register upon receiving an intention to do so from the licensee.

The above shortcomings are to a certain extent addressed by the Processes and Procedure Regulations and the relevant amendments⁴³. In addition to outlining the application processes and requirements. Accordingly, the Authority has a discretion to hold public hearings in respect of the registration process or licence renewal. Registrants are also required to demonstrate the need, demand, capability, and expertise. They are also required to submit proof of funding and a business plan for the first term of the broadcasting licence and required to demonstrate the technical quality of the proposed services. The latter is also in line with regulation 15 of the Processes and Procedure Regulations, whereby it requires technical specifications and coordinates to be submitted by the registrant.

3.4.2 Radio Frequency Spectrum Licence

In addition to the class broadcasting licence, community broadcasters require a class electronic communications network service licence (which is generally valid for a period of 10 years), as well as a spectrum licence (renewable on an annual basis). The broadcasting frequency spectrum applications are lodged in line with Radio Frequency Spectrum Regulations, 2015 as amended. Alternatively, the broadcasting service licensee can appoint any Electronic Communications Network Service (ECNS) licensee to provide broadcasting signal distribution on its behalf. In this instance the applicant has to indicate to the Authority if it will self-provide or use the licensed signal distributor who is in possession of the valid class or individual ECNS licence. The Authority can also request from the applicant the copy of the ECNS Licence or a confirmation letter from the appointed ECNS licensee.

⁴³ Regulation 7 (1) of the amended Regulations states that registration for a class community broadcasting licence in terms of sections 16 and 17 of the Amendment Act may only be submitted during the months of February and October, further, regulation 7 (2) states that notwithstanding the window period set out above applications for class broadcasting registrations may only be submitted to the Authority if the Authority has issued an invitation to apply ("ITA") for a radio frequency spectrum licence

The 2016 amendment to the Processes and Procedures Regulations for Class Licences also leverage the requirements for spectrum and service licenses to enable the Authority to determine the timing of applications and consideration of community broadcasting services registration. The regulations provide for two window periods for applications for community broadcasting service licences - which can only be done with the ITA for spectrum licence⁴⁴.

3.4.3 Moratorium on Licensing Community Broadcasting Services

The registration process applies equally to both community television and community radio. The relaxed licensing process has led to a proliferation of stations, and since community broadcasting services are assigned frequencies on a first come first served basis, congestion in this band. As a result, the Authority issued a moratorium on applications for community sound broadcasting services and radio spectrum licences.⁴⁵

It maybe that the above amendments and moratorium are too recent to ascertain the impact. However, there is perception amongst stakeholders that the licensing process remains uncoordinated and that some of the measures adopted, for example the Moratorium, have no basis in legislation.⁴⁶

3.4.4 Standard Terms and Conditions

The Standard Terms and Conditions for Class Licences Regulations regulate the service and network aspects of community broadcasters, largely detailing services to be provided, coverage area of different community broadcasters and licence duration. Some of the standard conditions associated with Community Sound Broadcasting

44 ICASA, Notice of amendment to the Regulations on Processes and Procedures Regulations for Class Licences, Government Gazette 39874, Government Notice 157 of 2016.

45 ICASA Notice of moratorium in terms of applications for class community sound broadcasting service licensees and applications for frequency spectrum for purposes of providing a community broadcasting service, Government Gazette 39226, Government Notice 918 of 2015. The reasons for issuing the moratorium are:

- Scarcity of analogue radio frequencies;
- The current review of licensing processes and procedure regulations wherein the Authority intends to process registrations for community sound broadcasting services in two (2) intervals per year; and
- The Authority's intention to develop a new regulatory framework for community broadcasting

⁴⁶ Stakeholder Interviews

Services and Low Power Community Sound Broadcasting licences (Class licences) include that they:

- are valid for 5 years (increased from four years for Community Radio and three years for Low Power).
 - shall only be awarded to natural persons who are citizens of the Republic or juristic persons who are, or will be, registered under the laws of the Republic and whose principal place of business is, or will be, located in the Republic.
- Can only be issued to entities that are non-profit and that any profits made must be ploughed back into the station or into community project⁴⁷.

The Regulations also speak to commencement of operations, hours of operations and the process to be followed in providing information whenever there is a change in the licensee's details.

3.4.5 Signal Distribution Costs

The White Paper on Broadcasting conceives regulation of signal distribution costs as a means of achieving "universal access to service and facilities"⁴⁸ With regards to community broadcasting regulation is intend to ensure that signal distribution reflects the needs of the broadcasting community and end users. As such, signal distribution tariffs should be affordable and flexible, and that they should be determined by the regulator.⁴⁹

These principles were carried through into legislation where the EC Act makes provision in section 63(2)(a) for a common carrier to "provide broadcasting signal distribution to broadcasting licensees upon their request on an equitable, reasonable, non-preferential and non-discriminatory basis"⁵⁰ Furthermore, section 62(3)(b) of the EC Act says that in determining its tariffs the common carrier must "...take into account....the different categories of broadcasting service...with a view to ensuring

⁴⁷ Regulations regarding Standard Terms and Conditions for Class Licences under Chapter 3 of the EC ACT, published in Government Gazette No 33296, dated 14 June 2010.

⁴⁸ White Paper on Broadcasting, page 27

⁴⁹ White Paper on Broadcasting, page 30

⁵⁰ Section 63(2)(a) of the Electronic Communications Act, 29 of 2006

that the different tariffs are appropriate to and commensurate with the various broadcasting services to which they relate. However, this condition has not been imposed of Sentech, as the Authority has not initiated a process of declaring Sentech be a common carrier”.

Signal distribution costs account for the bulk of community broadcasting services. The majority of community stations rely on Sentech to provide their signal distribution, the rest, approximately 53 stations self-provide their signal distribution. The only other licensee providing broadcasting signal distribution is Orbicom. However, this commercial service is owned by subscription television provider, Multichoice’s, and does not generally provide signal distribution services to other broadcasters.

The issue of signal distribution tariffs has long been a controversial one, with Sentech contenting that its tariffs are set fairly,⁵¹ and the community broadcasting sector seeking a more affordable tariffs. While the policy and legislative framework encourages the regulator to set affordable and flexible tariffs, especially in relation to community broadcasters, based on the processes required above the Authority has implemented a regulatory framework for signal distribution. Signal distribution costs will be even more pronounced in the Digital Terrestrial Television (DTT) environment. It is thus even more important that the Authority considers mechanisms of reducing these cost for the community broadcasting sector to complement the existing support provided by the DoC’s community broadcasting support scheme.

51 The signal distributor argued that four elements determined its fees:

- Capital cost of dedicated equipment (e.g. transmitter)
- Capital cost of shared equipment (e.g. mast & antenna system)
- Capital cost of accommodation of equipment
- Service fee comprising call-out and maintenance costs

3.5 Programming and Content Development/ Acquisition

Community broadcasting forms one of the three tiers of broadcasting, the other two being commercial and public broadcasting. Collectively these three tiers must contribute to the public interest with commercial, public and community broadcasting services complementing each other within the South African broadcasting system. The community and public broadcasting services are seen as contributing towards educational and development programming, cultural and language plurality. Commercial broadcasting services are meant to contribute to competition, economic empowerment and plurality in ownership. This implies that public interest programming requirements would be weighted more towards community broadcasting⁵².

3.5.1 Local Content

Community radio stations are expected to contribute more towards local content (80% -At least 20% of music quota must be sourced from the coverage area- as compared with 70% and 35% of public and commercial broadcasting services, respectively)⁵³. In relation to community television, similar to public television, the quota is 65%, compared to 45% for commercial free-to-air and 15% for subscription. Additionally, community television stations are expected to ensure that 30% of this programming is produced within its coverage area. This figure must increase by 10% annually until it reaches 50%⁵⁴.

3.5.2 Language

Community broadcasting services are also expected to promote and broadcast in languages used in the communities where these stations are based. These requirements are captured in amongst others conditions which specify requirements for news, actuality, educational programming, and locally originated programming.

52 The IBA, 1995, Triple Inquiry Report. (Report on the protection and viability of public broadcasting services; cross-media control of broadcasting services; and local television content and South African music).

53 Regulations on South African Music content, published in Government Gazette No 39844 of 24 March 2016.

54 Regulations on local television content, published in Government Gazette No 39844 of 24 March 2016.

3.5.3 Content Acquisition

The position paper on Community television broadcasting services stipulates that community television services will be expected to broadcast programming that supports and promotes sustainable development, participatory democracy and human rights as well as the educational objectives, information needs, language, culture and entertainment interests of participating groups such as women, youth, civic and sport interest group.⁵⁵

To this effect the position paper in line with local content regulations encourages community television services to source their content locally and from independent production companies, and set the quota for independent television production for community television services at 40%.⁵⁶

This should be distinct from commercial and public broadcasting and intended to be an alternative source of information, education and entertainment for local communities. As such, stations should have strategies and mechanisms of sourcing such content, ensuring that it is distinct and serves their communities in terms of good quality locally sourced programming using local language in their diversity.

Three areas were highlighted as key to securing community programming, these are local origination, availability of programming resources and content acquisition strategies for community television.

3.6 Conclusion

This section considered the underlying principles informing the scope and mandate of community broadcasting, licensing requirements and procedures, monitoring and enforcement procedures, content requirements and institutional support provided to community broadcasters. The section highlighted weaknesses in the regulatory and licensing framework that requires further inputs in the discussion documents. These

⁵⁵ ICASA, Community Television Broadcasting Services Position Paper. 30 November 2004.

⁵⁶ Ibid, page 22.

include, the scope of community broadcasting, licensing approach, licensing requirements and fees, as well as funding strategies for community broadcasting.

SECTION C: FINDINGS

4. THE SOUTH AFRICAN COMMUNITY BROADCASTING LANDSCAPE

4.1 The size of the community broadcasting market in South Africa

There are currently 280 community broadcasting services, comprising of 275 community sound and 5 community television services. According to AC Nielsen and AMPS data, collectively stations take up an audience share of 6.3 million people.⁵⁷ However, this has not necessarily translated into advertising revenue. An estimated 9.5%⁵⁸ of South African adults watch community TV compared to an advertising of spend less than 1%. Community radio is listened to by 25%⁵⁹ of South African adults and receives about 2% of the advertising spend. At face value this can be attributed to the profile of the community sector's audience, that is, this sector does not deliver audiences that are attractive enough to advertisers to derive comparable advertising revenue. However, factors determining the success of community broadcasting services are complex than this

4.1.1 Licensed Broadcasting Services in South Africa

The EC Act recognizes three tiers of broadcasting, namely, public, commercial and community broadcasting. The table below summarised the number of services that are licensed in South Africa.

<i>License Category</i>	Radio	Television	Total
<i>Subscription</i>	0	9	9
<i>Commercial</i>	25	2	27
<i>Public</i>	15	2	17
<i>Community</i>	275	5	280
<i>Total</i>	315	18	333

Table 1 Licensed broadcasters in South Africa

⁵⁸ Television Audience Measurement Survey (TAMS)

⁵⁹ All Media and Products Study (AMPS) 2015 AB. the exact number of viewers / listeners vary depending on the research: RAMS vs AMPS)

There are currently 280 community broadcasting services, comprising of 275 community sound and 5 community television services, namely Soweto TV, Cape TV, 1KZN TV, Tshwane TV and Trinity Broadcasting Network (TBN). Community television services are broadcast on the DStv bouquet as well as on their licensed terrestrial regions also. In addition to these services a new regional (Gauteng) TV channel, GAUTV started broadcasting on DStv, in October 2016, and there are an estimated 31 radio stations that only broadcast on the internet.

4.1.2 Community Broadcasting Audiences

Audiences numbers and reach are an indicator of popularity of community broadcasting services.

Community Television broadcasting audiences

Comparatively, total television increased its penetration from 76.5% in 2000 to 91.5 % in 2012, since then growth has slowed and was recorded to be 91.8% in 2015.⁶⁰ Comparatively, community television broadcasting services indicated varying audience trends. This is depicted in figure 2 below indicating audience reach of the five community television licensees in South Africa.⁶¹ This indicates that Soweto TV grew until 2012, but has seen a steady decline in audience since then. Similarly, Cape TV lost audience in 2012/13 but has shown growth in the following years. The other channels are still relatively new, but appear to be increasing in audience.

60 AMPS 1997 – AMPS 2015AB60

61 It is not possible to provide a provincial summary; however, the majority of reach can be assumed to be achieved within the broadcast province. A small portion can be allocated to national viewing via the DSTV platform.

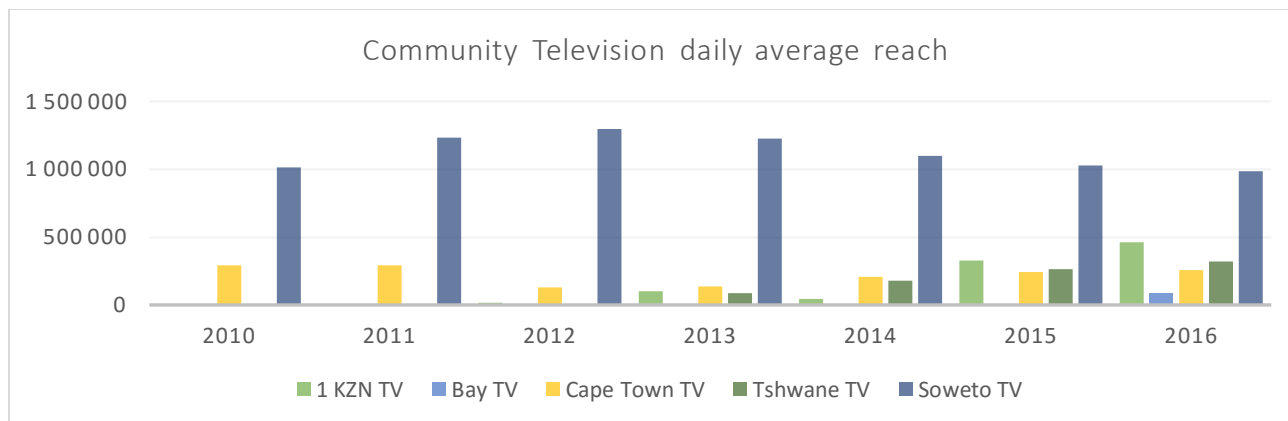


Figure 1 Community Television daily average reach

Source: TAMS 2010 -2016 Jan-Dec

Community Sound broadcasting audiences

Despite a slight decline (from 92.2% in 2000 to 91.5% in 2014), radio is reported to have maintained its high penetration over the past 5 years, consistently reaching over 90%. There has been an increase in the community radio market in terms of audience numbers and reach. As indicated in the figure below Community Radio grew from 8% in AMPS 1997 to 25.3% in AMPS 2015 AB. This indicates that there is a potential market for community radio going forward.

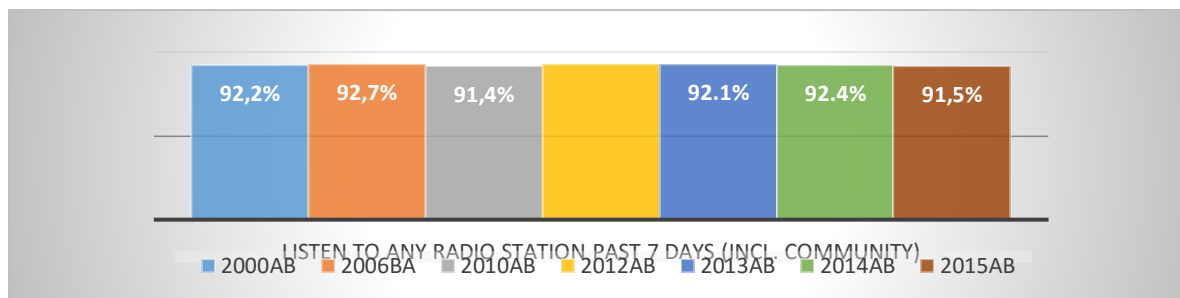


Figure 2 Community Radio percentage growth Source: AMPS 1997 – AMPS 2015AB62

However comparatively, Broadcasting Research Council of South Africa (BRC) data indicates that there are a substantial number of people (80%) who don't listen to community radio. Only 13.3% of people who listen to commercial/PBS stations also listen to community radio. However, there are 5% of the adult population who only listen to community radio.

62 Sufficient trend data not yet available from the BRC RAMS so AMPS data is used in this instance

Table 2 below provides a comparison of the number of available radio community stations against the community station listeners in each province. From this it is clear that some do substantially better than others. The Western Cape, Eastern Cape and Gauteng stations deliver proportionally far higher audiences. The Western Cape has 14% of the stations but delivers 20% of the audience. The province with the poorest performance is Northern Cape, with 4% of the stations and only 2% of the audience.

Province	Community Radio				
	No. of Stations	% Stations	Audience '000	Audience %	Index on No. of Stations
Western Cape	39	14%	1 304	20%	142.8
Northern Cape	10	4%	105	2%	44.9
Eastern Cape	31	11%	1 154	18%	159.0
Free State	20	7%	275	4%	58.7
KwaZulu-Natal	35	13%	557	9%	68.0
Mpumalanga	27	10%	289	5%	45.7
Limpopo	35	13%	740	12%	90.3
Gauteng	52	19%	1 468	23%	120.6
North West	24	9%	498	8%	88.7
	273		6 390		

Table 2 Provincial Community Radio Audiences

Source: Radio Audience Measurement Survey(RAM)S, AC Nielsen

However, in terms of the bigger sustainability issue, for community sound stations to make themselves more viable, they would need to need to increase their audience among audiences served by commercial stations.

4.1.3 Community Broadcasting Services share of Advertising Revenue

It also important to demonstrate advertising spend by community broadcasting services, comparatively to other mediums, and to provide an analysis on this sector's comparative performance to other broadcasting service. Advertising revenue trends between 2013 and 2016 are indicated below

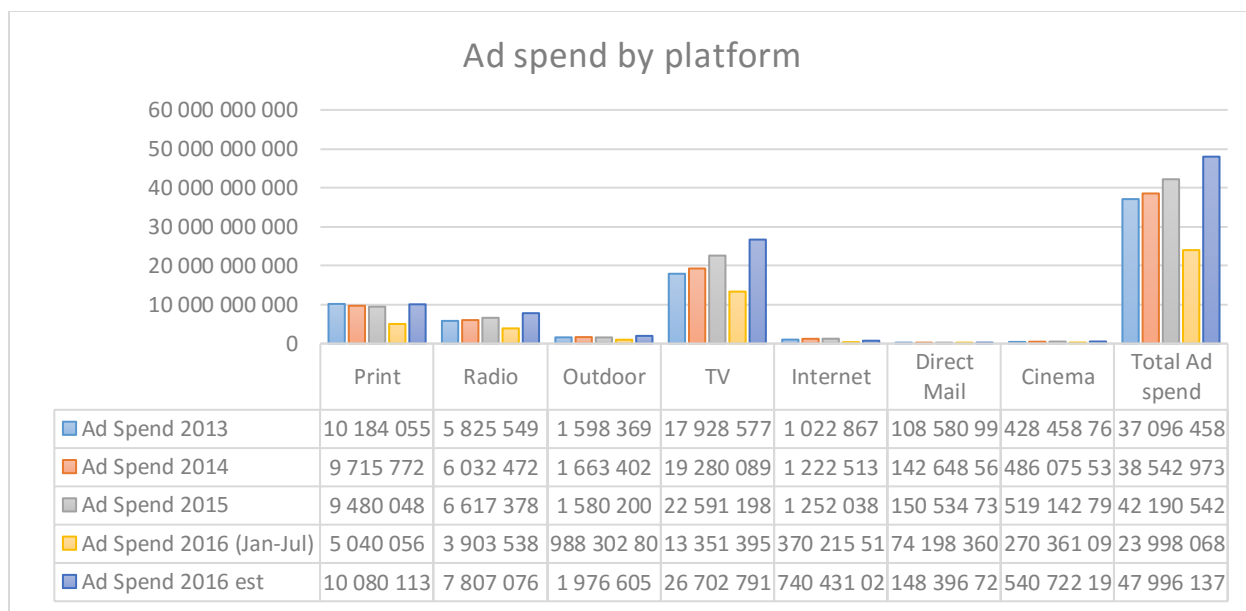


Figure 3 Advertising spend across platforms⁶³

Source: ACNielsen Adex

Community Television

Viewed in the context of television deriving having the highest share of advertising revenue, community television derives relatively a minimal of this revenue, and it is the subscription service provider (DSTV) that is leading. Accordingly, television advertising spend is growing, with DSTV group of channels leading this growth from 4,9 billion in 2010 to 13, 4 billion in 2016.⁶⁴

This can be attributed to DSTV audience numbers growing with the offering of a wider range more affordable packages. Their sales policies of guaranteed delivery also make them a more inviting option for advertisers. This raises challenges for the smaller independent channels without access to large sales divisions or the ability to combine with other channels to offer advertisers a more attractive package.

In terms of community television, there is only advertising spend data for Soweto TV, which is relatively doing well. This can be attributed to their ability to deliver key audiences in Gauteng and Living Standard Measure (LSM) 5-7 in large enough numbers have made them a viable channel to use. If the audience numbers are too

⁶³ Before 2013 advertising spend for Cinema was not measured

⁶⁴ ACNielsen Adex

small, it is difficult for advertisers to justify spending money as reliability of delivery is key.

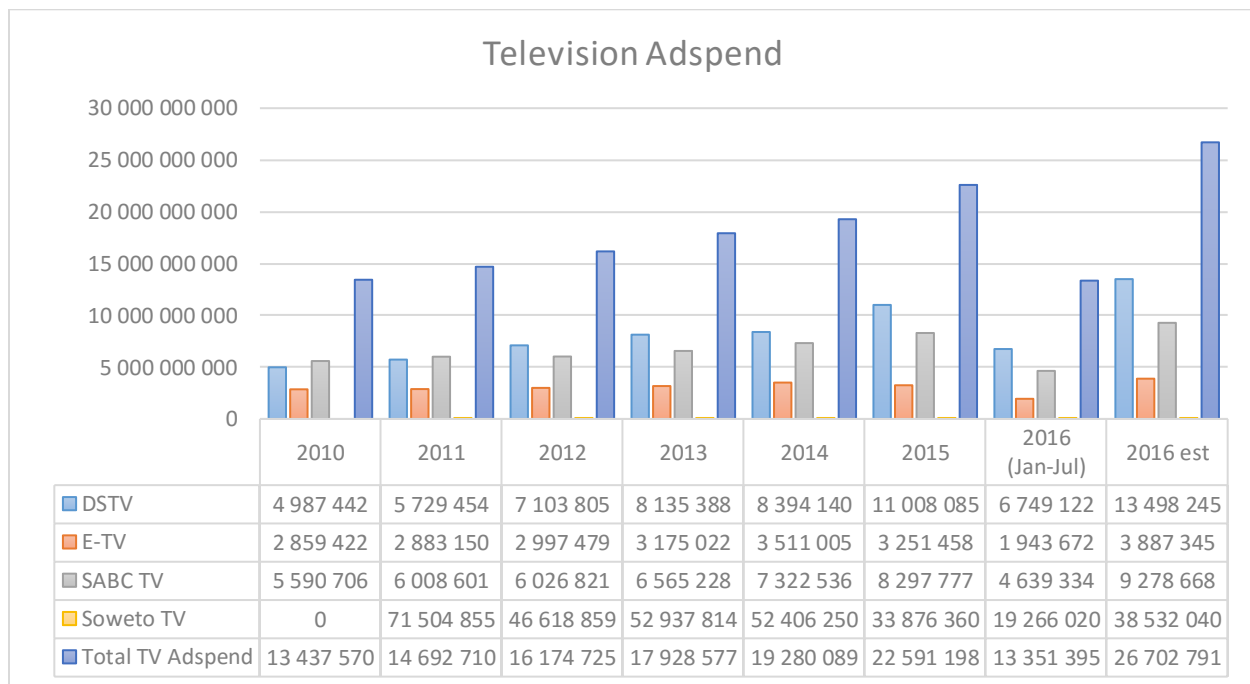


Figure 4 Television Advertising Spend

Source: ACNielsen Adex

The relationship between television audiences and advertising spend, while not directly proportional is a clear indicator of revenue. When looking at the share of total audience ratings it is clear that the large commercial stations are dominant. When grouping DSTV commercial stations (S1, S2 and S3) they make up the largest sector. Community station audiences are hardly visible.

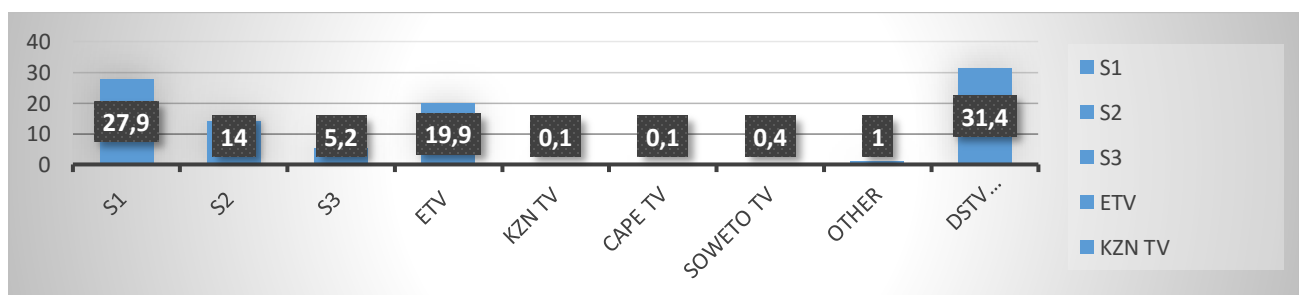


Figure 5 Share of Audience – All Stations (All air time)

Source: TAMS (w/c 21Nov 2016)

However, the amount of money that can be charged per 30" advert varies significantly from channel to channel.

Community radio

Radio closely follows television in terms of advertising spend. The detail of the revenue derived by stations is depicted in figure 10 below. This indicates that since 2010 Commercial Regional Stations have received the highest Advertising Revenue. The argument that urban stations perform better than rural stations with regard to advertising revenue is true.

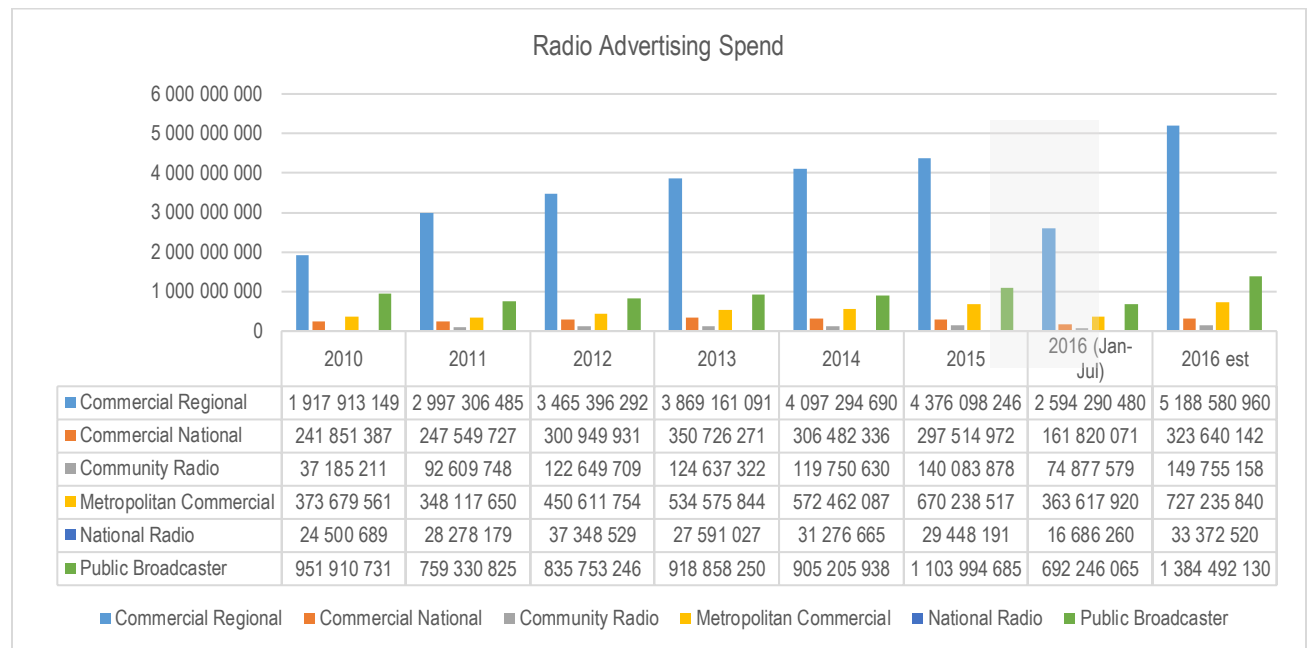


Figure 6 Radio Advertising Spend

Source: ACNielsen Adex

This trend is also identified in community stations, where stations with high numbers of urban listeners all receive a larger than average share of advertising spend, with Jozi FM being the largest. This is detailed in tables 3 and 4 below; providing a comparison of the top 10, and bottom 10 performers out of sample of 69 stations in terms of audience figures per geographical location. Indicating GT Jozi FM as the highest performer with a higher metro audience (417 000) and compared to MP Nkomazi FM with no metro based audience.

#	Stations	Total Audience	Metro of Small		Rural	
		Audience (000)	Audience (000)	%Row	Audience (000)	%Row
1	GT Jozi FM	456	417	91.4	39	8.6
2	WC Radio Tygerberg 104 FM	236	230	97.5	6	2.5
3	WC Radio Zibonele	228	212	92.9	16	7.1
4	GT Kasie FM 97.1	151	144	95.5	7	4.5
5	GT Thetha FM 100.6	177	144	81.4	33	18.6
6	GT Voice of Tembisa FM	142	142	100	0	0
7	WC Voice of the Cape	122	122	100	0	0
8	NW Moretele Community Radio 106.6 FM	155	112	72	43	28
9	NW Star FM 102.9	124	111	89.4	13	10.6
10	WC CCFM 107.5	112	110	97.9	2	2.1

Table 3 Top 10 Metro versus rural audiences Source: ACNielsen Adex, BRC RAMS 2016 (Q1+Q2) All Respondents⁶⁵

#	Stations	Total Audience	Metro of Small		Rural	
		Audience (000)	Audience (000)	%Row	Audience (000)	%Row
60	LP Mala FM 101	95	9.9	85	90.1	60
61	EC Alfred Nzo Community Radio 98.3/93.8 FM	136	6.8	127	93.2	61
62	MP Moutse Community Radio Station (MCRS 96.3)	82	8.6	75	91.4	62
63	LP Moletsi Community Media	74	9.5	67	90.5	63
64	LP Sekgosese Community Radio	131	4.6	125	95.4	64
65	LP Giyani Community Radio (GCR)	94	4	90	96	65
66	LP Sekhukhune Community Radio (SKFM)	61	5.1	58	94.9	66
67	EC Inkongane 100.5 FM	125	2.5	122	97.5	67
68	NW Modiri FM	65	4	63	96	68
69	MP Nkomazi FM	80	0	80	100	69

Table 4 Bottom 10 Metro versus rural audiences Source: ACNielsen Adex, BRC RAMS 2016 (Q1+Q2) All Respondents

An analysis of the success rate of community indicates that there is approximately 8% failure of licensed service providers in the primary markets compared to an approximate 10% failure rate in secondary markets. Closer inspection reveals an approximate 18.5% failure rate in KZN which falls in the primary market category. While Limpopo and the Eastern Cape have an approximate 26% and 14% failure rate respectively; and the Northern Cape has a zero failure rate.

⁶⁵ Note on data accuracy

4.2 Community broadcasting share of advertising spend

It also important to demonstrate advertising spend by community broadcasting services, comparatively to other mediums, and to provide a detailed analysis on this sector's comparative performance to other broadcasting service. Advertising revenue trends between 2013 and 2016 are indicated below.

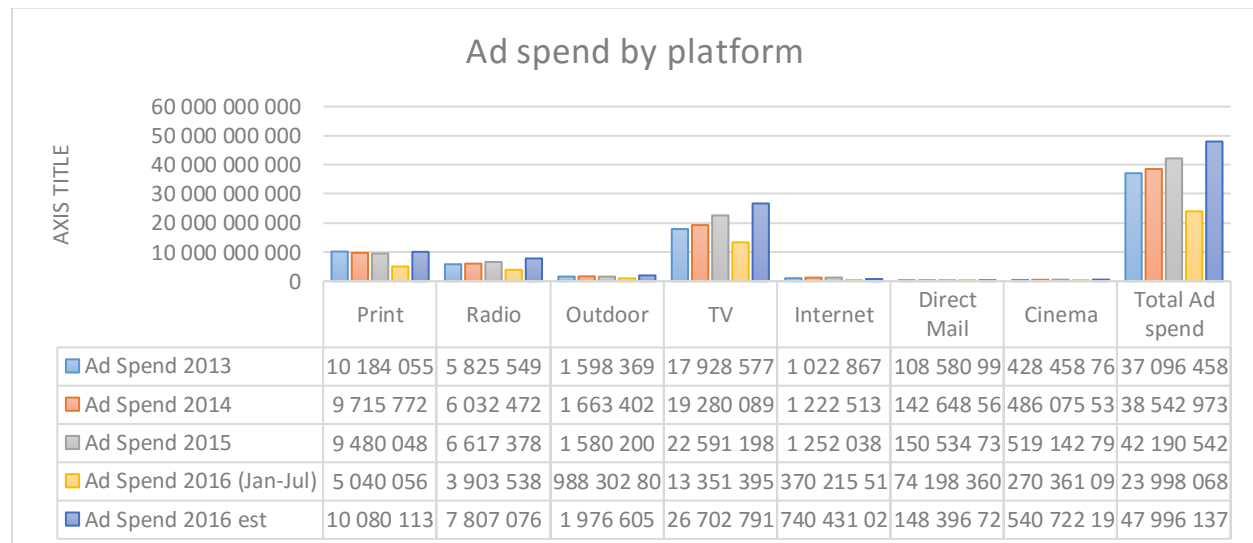


Figure 7 Ad Spend by Platform

Source: ACNielsen Adex

This indicate that over the past 3 years' total television has received the largest share of advertising revenue and that this trend is still increasing. This can be attributed to television being a mass reach medium with a national footprint. It has high impact and has demonstrated it is able to deliver results for advertisers.

In comparison, print has shown a steady decline, with most of the money moving to television. For example, the total advertising spends in 2014 was R 38 542 973 864, There was a decline of R 468,282,623 in print advertising and an increase by about R1,351,511,728 predominantly in television. Print readership has been declining over the past few years, primarily due to the increase in access to the internet and the high cover cost of magazine titles. A small amount of the print money has shifted to radio and the internet, but this is not significant. Radio delivers a relatively high cost per rating. It is still a growing medium and listeners have close and loyal relationships with their favorite stations. The Internet is growing rapidly; all be it off a small base.

Community broadcasting service derive a much lower share of the broadcasting advertising share. This is depicted in the tables below, providing a comparison of community services share of revenue as compared to commercial television and commercial radio, respectively.

	2010	2011	2012	2013	2014	2015	2016 (JAN-JUL)
TOTAL TV	13 437 570 550	14 692 710 977	16 174 725 434	17 928 577 503	19 280 089 231	22 591 198 896	13 351 395 548
SOWETO TV	no data	71 504 855	46 618 859	52 937 814	52 406 250	33 876 360	19 266 020
COMMERCIAL TV	13 437 570 550	14 621 206 122	16 128 106 575	17 875 639 689	19 227 682 981	22 557 322 536	13 332 129 528
SOWETO TV		0.5%	0.3%	0.3%	0.3%	0.1%	0.1%
COMMERCIAL TV	100%	99.5%	99.7%	99.7%	99.7%	99.9%	99.9%

Table 5 Advertising Spend (Share of Revenue: Commercial vs Community Television) Source: AC Nielsen Adex

	2010	2011	2012	2013	2014	2015	2016 (JAN-JUL)
TOTAL RADIO	3 547 040 728	4 473 192 614	5 212 709 461	5 825 549 805	6 032 472 346	6 617 378 489	3 903 538 375
COMMUNITY RADIO	37 185 211	92 609 748	122 649 709	124 637 322	119 750 630	140 083 878	74 877 579
COMMERCIAL RADIO	3 509 855 517	4 380 582 866	5 090 059 752	5 700 912 483	5 912 721 716	6 477 294 611	3 828 660 796
COMMUNITY RADIO	1.0%	2.1%	2.4%	2.1%	2.0%	2.1%	1.9%
COMMERCIAL RADIO	99.0%	97.9%	97.6%	97.9%	98.0%	97.9%	98.1%

Table 6 Advertising Spend (Share of Revenue: Commercial vs Community Radio) Source: AC Nielsen Adex

When looking at advertising revenue for community broadcasting, they receive a much lower share of revenue than would be expected when taking their reach into account. An estimated 9.5%⁶⁶ of South African adults watch community TV compared to an advertising of spend less than 1%. Community radio is listened to by 25% of South African adults and receives about 2% of the advertising spend.

⁶⁶ The exact number of viewers / listeners vary depending on the research: RAMS vs AMPS)

4.3 Community Broadcasting Audience Profile

A further analysis of the individual commercial free-to-air (e.tv), DST, public (SABC1,2 and 3) and community television channels audiences could provide some answers as to why commercial and public services are more attractive to advertisers and derive more as opposes to community services.

4.3.1 Profile of Television Audiences

The table below compares adverting spend, advertising share and reach of television services in South Africa. DSTV has the largest share of the ad spend, followed by SABC 1, e.tv, and SABC2. This is despite having a lower reach at 43.4% as compared to these channels at 81% for SABC 1; 77.6 % for SABC2; 70.7% for e.tv; and 59.6% for SABC 3.

	2015 Advertising Spend	% Share of Spend	Reach in '000	Reach %	INDEX
DSTV	R 11 008 085 983	48.7%	15 191	43.4%	112
SABC 1	R 3 672 076 843	16.3%	28 621	81.8%	20
E-TV	R 3 251 458 726	14.4%	24 721	70.7%	20
SABC 2	R 2 550 828 200	11.3%	27 128	77.6%	15
SABC 3	R 2 074 872 784	9.2%	20 834	59.6%	15
Soweto TV	R 33 876 360	0.1%	2 761	7.9%	2
Tshwane TV	No Data		551	1.6%	
KZNTV			783	2.2%	
Bay TV			489	1.4%	
CTV (Cape Town TV)			295	0.8%	
Total	R 22 591 198 896	100.0%	34 969	347.1%	
				Note: Duplication of viewers	

Table 7 Community Television share of ad spend

Source: ACNielsen Adex, BRC RAMS 2016 (Q1+Q2) All Respondents

The profile/ quality of the channels audience and sales strategies are an important factor as can be seen by a comparison of audience profiles below.

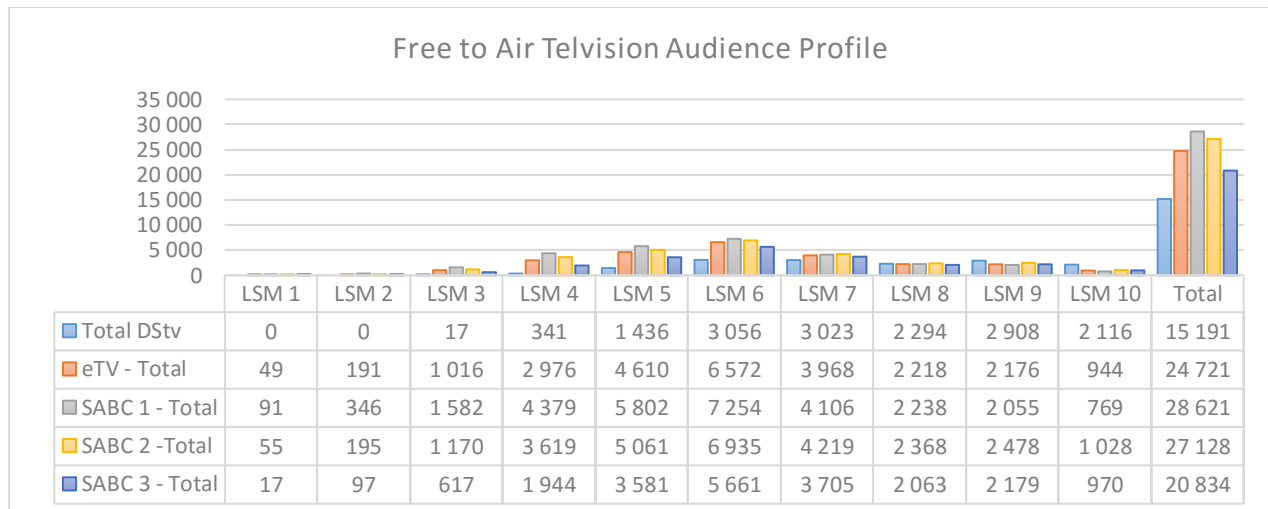


Figure 8 Television Audience Profile

Source: AMPS 2015 Six Months (Jan 2015 - Jun 2015)

DSTV derives the highest advertising revenue, R 11 008 085 983 in 2015. As indicated above DSTV targets the middle to upper LSMs and is the only broadcaster to deliver LSM9 and LSM10 in significant numbers. However, in the case of DSTV It is difficult to establish a direct relationship between spend and audience due to the duplication in viewers, however it does appear to receive significantly more advertising spend than its audience indicates.

The individual smaller channels on the DSTV platform would probably not receive any advertising investment if they were only sold as individual channels. It is the ability to group them into a large, reliable unit that makes them a viable advertising option. This would be the case for the community stations as well. At R 3 251 458 726 e.tv is the third largest in terms of advertising spend. This can also be attributed to its audiences, a large proportion of which falls between LSMs 5 and 7.

In line with its public broadcasting mandate SABC channels, besides SABC 3, caters for a wide range of audiences, across all LSMs. SABC 3 is an exception in the sense that its focuses more on the upper LSMs with its programming direction. This enables it to deliver a good advertising revenue. SABC 1 is the largest channel in South Africa and receives the largest individual advertising spend, at R 3 672 076 843. It focuses on the lower to middle LSMs and delivers these audiences in large numbers (82% of all TV viewers watch SABC 1 and 75% of South African adults watch SABC1). SABC

2 has a similar LSM profile to SABC 1. It generates an ad revenue of R 2 550 828 200 with a slightly higher delivery in the upper LSMs. (78% of TV viewers, 71% of SA adults. It is a channel that targets multiple sectors of the population with its programming so while appealing to multiple groups it sees a variation in investment at a program level.

In comparison, the majority of community television stations service the middle LSMs (LSM 5-7). This is the largest and fastest growing market sector in South Africa, so there is potential for revenue. However, it is also the key focus for the big commercial stations, resulting in a high level of competition. This is depicted in figure 18 below.

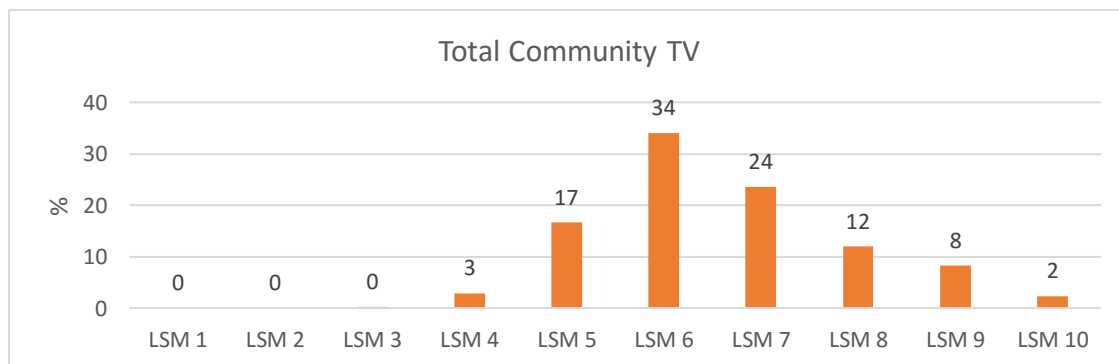


Figure 9 Total Community TV Audience Profile

Source: AMPS 2015 Six Months (Jan 2015 - Jun 2015)

There are however slight variations of audience profile which are also reflected in the advertising revenue generated by community television stations. As indicated in figure 10 below, of all the community television channels, only Soweto TV delivers a significant size audience to be of consideration to national advertisers. Local marketers and retailers would find the smaller, more relevant footprints attractive. However, they have limited budgets so will not be able to contribute large spend.

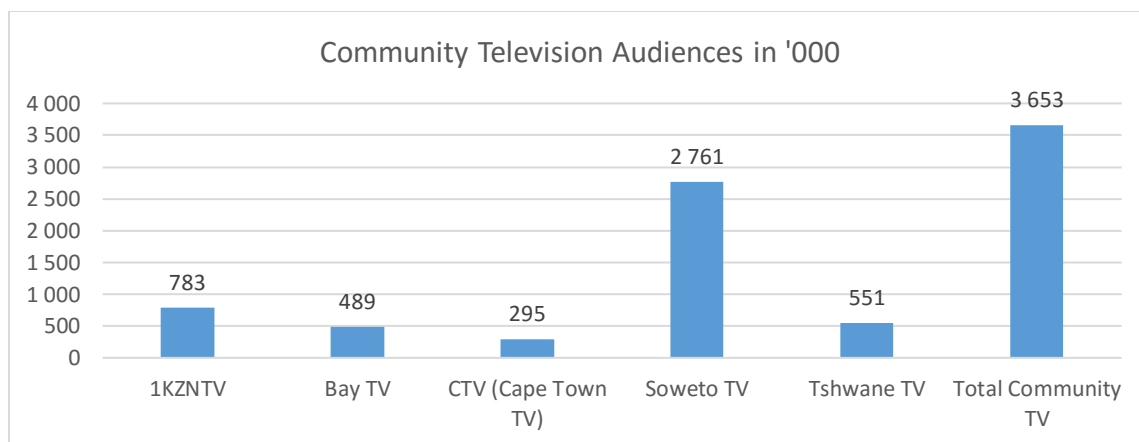


Figure 10 Community Television Audience Numbers

Source: AMPS 2015 Six Months (Jan 2015 - Jun 2015)

The LSM profiles of the 5 licensed community television services are illustrated below.

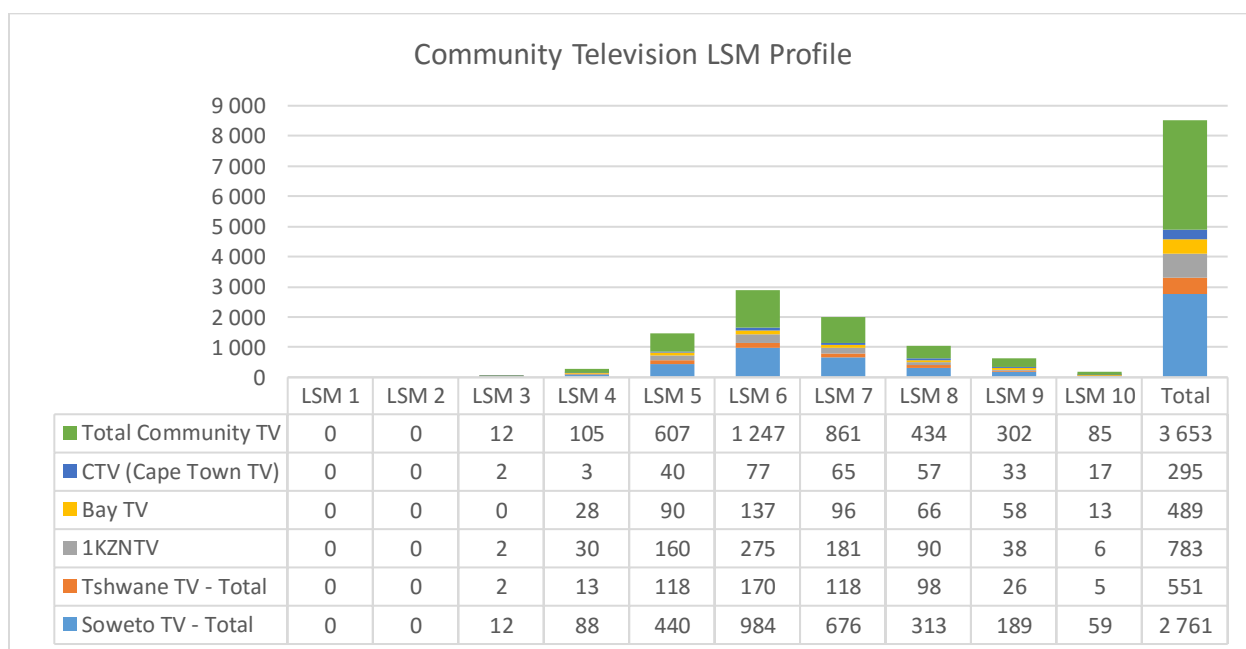


Figure 11 Community Television LSMs Profile Source: AMPS 2015 Six Months (Jan 2015 - Jun 2015)

This illustrates the following regarding community television LSM profiles.

- Soweto TV is the largest of the community TV stations and is now receiving sufficient advertising spend to be listed separately in the research. Focusing on LSM 6 and LSM 7, over 60% of its audience is in the key mass market segment.

- KZN TV 's profile is centred in LSM6, with spill over on either side to LSM5 and LSM7. There is a very limited reach among the upper LSM. This will limit their relevance to some advertisers.
- Bay TV has quite a wide reach among the LSMs from LSM 5 through to LSM 9. This gives them potential for growth across the spectrum of advertisers.
- CTV audiences are middle through to upper LSMs. This is the profile that most national advertisers would look for, however the very fact that the station only has national reach via the DSTV platform will limit the spend opportunities. If its audience grows, then there may be additional spend.
- Tshwane TV also focuses on the mass market sector, starting in LSM 5 through to LSM 8. Small audiences limit its ability to generate advertising revenue.

Taking the above community television audience profile and advertising revenue into account, it is important to note that in order to attract sufficient advertising revenue, television station needs to provide both a sufficiently large audience and a consistently stable audience to be added to the candidate list.

Additionally, the 'local' nature of community television could also be a factor. Most clients that can afford to advertise on television are national. There are a few circumstances that would require a regional campaign; for example, a local store opening, a key market that needs additional support. These could provide additional revenue. However, the majority of the revenue would come from local marketers.

4.3.2 Profile of Community Radio Audience

Radio is the most widely accessible medium with 91% of the population listing so one or more station in a week. 84.9% of South African adults listen to a commercial or Public Broadcasting Services (PBS) station. According to the BRC Radio Audience Measurement Survey (RAMS) 2016 (Q1+Q2), All Respondents Community Radio reaches 16.7% of the population. Furthermore, in terms of weekly audiences, there is almost no difference in the profiles of Adults, Total Radio, Commercial/PBS and Community radio listeners. The only minor difference is in LSM10.

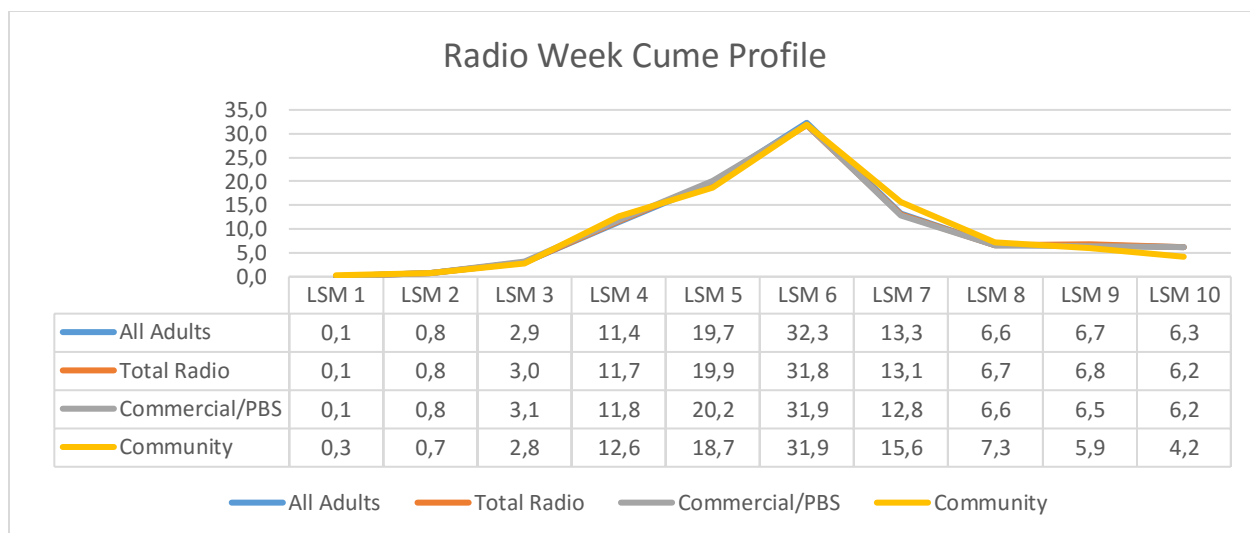


Figure 12 Radio station's weekly audiences

Source: BRC RAMS 2016 (Q1+Q2) All Respondents

In terms of advertising spend and audience for the community stations there is a relationship between the size of the audience and the amount of money that marketers are prepared to spend on the station compared to regional commercial stations.

When considering the relationship between audience size and the amount of advertising revenue a station receives, one would expect to see a correlation between the two (see table below). For community radio this is the case to a certain extent, with 5 of the top ten stations being ranked among the top ten stations for receiving advertising spend. Jozi FM is a highly competitive station, ranked number 1 for both audience and advertising spend. Its reach is large enough to justify including it on most schedules that target the Gauteng market.

However, there are exceptions. One of the stations that do not fit the pattern is the second ranked in audience, Unitra FM, which is ranked number 10 in advertising spend. Vukani FM, an Eastern Cape station, is ranked 5th in audience, but only receives R247 031 (ranked 87). Alex FM, on the other hand, is ranked 5th in advertising revenue, but only has 44 000 listeners (ranked 63).

Both of these anomalies can probably be attributed to the region of broadcast. Gauteng is a much more important market than the Eastern Cape and generally receives more of the advertising spend. This can be ascribed to a number of things,

including lack of exposure about the community radio stations among media planners; perceptions of poor reliability, lack of professionalism and no consistent audiences.

When doing the same analysis for commercial radio the picture is quite different. In terms of commercial radio only 2 of the top 20 audience stations, namely Jacaranda (R698 895 684 and ranks 10th in terms of audiences) and 947 (R777 633 148) This can be attributed to a number of reasons. These two stations are based in Gauteng station, a popular advertising market; most of the advertising decision makers live in Gauteng and are familiar with the station. In addition, both its music format and its upper LSM profile make it an attractive station.

Jacaranda FM also receives a disproportionate amount of money for similar reasons.

Metro on the other hand, is a big national station and receives the appropriate amount of advertising revenue. On the converse Ukhozi FM, a public broadcasting radio station ranked number 1 for audience, is only ranked 7 for advertising spend. To some extent this can be attributed to the fact that it is not an English language station and the majority of its audience is from the rural lower LSMs. This is not a market that is widely supported by marketers.

4.4 Economic profile of markets served by community broadcasting services

Economic viability is an important consideration in determining the sustainability of community broadcasting services. It may be useful to consider the economic profile of markets served by community. The concept of primary and secondary market was developed to consider economic viability of commercial sound broadcasting services. But can also be applied in considering economic viability of community sound services. Primary markets are defined to exhibit high population density, a low unemployment rate and high levels of urbanization. Gauteng, Kwazulu-Natal and Western Cape are considered primary markets. Secondary markets refer to those

situated outside of the primary markets, that is, Eastern Cape, Free State, Limpopo, Mpumalanga, North West and Northern Cape.⁶⁷

4.4.1 Performance of community sound services in primary versus secondary markets

Approximately 45% of the licensed community sound broadcasting services were licensed to operate in the primary markets. However, the largest number of licensees is Limpopo; which falls in the secondary market category.

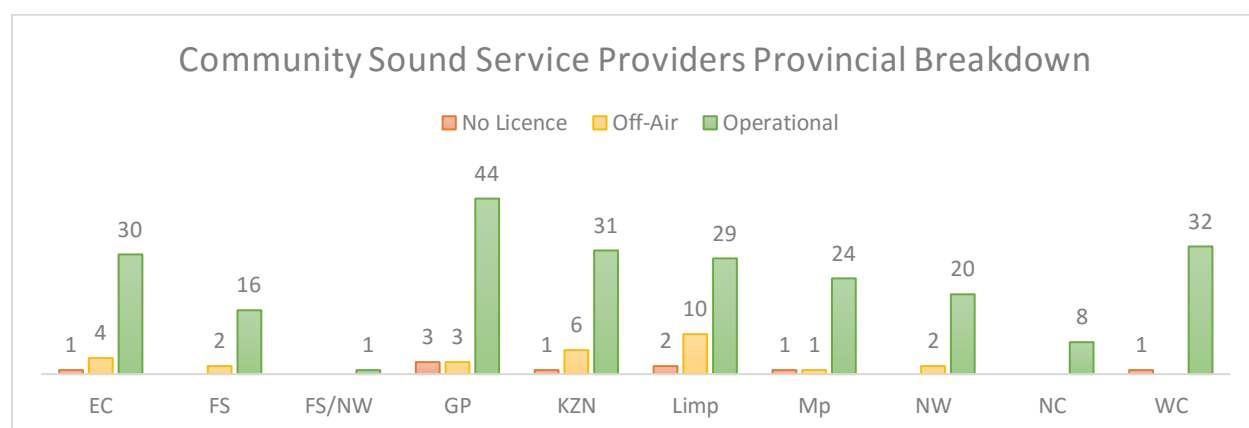


Figure 13 Community Sound Service Providers Provincial Breakdown
database

Source: ICASA Internal Reports/

Measured in terms of licensed versus operational community sound licensees, there is 10% failure rate in the secondary market as compared to 8% in the primary markets. In terms of primary markets - KZN accounts for approximate 18.5% of failed stations. In secondary markets, Limpopo accounts for 26%, Eastern Cape 14%, and Northern Cape has a zero failure rate.

4.4.2 Economic Profile (Primary vs Secondary Markets)

Factors contributing to the success of the community broadcasting sector are more complex. Success derives from an interaction of a number of factors, including the economic profile of the areas serviced by community broadcasting services (primary versus secondary markets), license category (geographic versus community of interests), services format (whether predominantly talk or music) and audiences

⁶⁷ ICASA, Position Paper on Ownership and Control

served (whether youth, religious etc.). This is illustrated in the table 8 below, sampling success rate and influencing factors for community sound broadcasting services provincially.

PROVINCE	LICENSING
Gauteng (most lucrative)	<ul style="list-style-type: none"> • Diverse stations licensed • No coverage overlap of geographic licensees
KZN	<ul style="list-style-type: none"> • 1 to 3 licensees per district; eThekweni has the highest concentration of licensees, but all operate successfully • uThungulu has the highest failure rate (66.67 %) - licensing stations with a similar format
Western Cape	<ul style="list-style-type: none"> • 4 to 6 licensees per district; Cape Town Metropolitan has the highest concentration, stations coverage overlap but are distinguished by the interest group served. • No licensees in the Central Karoo
Eastern Cape	<ul style="list-style-type: none"> • Alfred Nzo, Chris Hani and Sara Baartman districts have a lower number of licensees • OR Tambo district has a failure rate of 50% due to duplication (a new station licensed within the same coverage areas with 2 established stations-serving the same profile audience) • Religious services concentrated in metros (Buffalo City has 2 religious community of interest within an overlapping geographic area; NMB does not have a geographic community station)
Free State	<ul style="list-style-type: none"> • Stations in the province have a talk format bias (e.g. 3:1 in the Fezile Dabi and Thabank Mofutsanyana) • Stations that have failed (in the Xhariep and Lejweleputswa) are based in areas where there is high unemployment and limited economic activity
Limpopo	<ul style="list-style-type: none"> • Stations in the province have a talk format bias • Mostly geographic stations are Failing (only 1 community of Waterberg) • 2 of the failed stations in the Vhembe region offer identical services within the same coverage area
Mpumalanga	<ul style="list-style-type: none"> • Stations evenly dispersed across districts • Stations have a talk format bias • Low failure rate- low overlap between services
Northern Cape	<ul style="list-style-type: none"> • Low overlap- where there is distinguished by differentiation in programming format- low population density

Table 8 Factors influencing licensing success

Source: ICASA Internal Databases⁶⁸

⁶⁸ The community broadcaster's licensee specific data is based on the gazetted list of licensees on March 2016, lower power broadcaster are excluded, licensees that have a license that overlap two provinces are excluded. Discrepancies

5. STAKEHOLDER INTERVIEWS

5.1 Introduction

Stakeholders were drawn from a sample of community broadcasting stations and sector stakeholders. The broadcasters' sample was structured to reflect a broad profile of community stations in South Africa including urban, rural, geographic and community of interest stations. This study specifically focused on those stations that were either compliant and successful or weaker and non-compliant so that the experiences of a broad range of stations could be assessed.

The sample comprised of 44 stations, made out of 6 community television and 38 radio stations. Out of the 44 sampled, 30 were geographically based and 14 were community of interest. Out the 44, 30 stations acceded to interviews. In addition, a total of 14 sector stakeholders, ranging from academia, relevant government departments and agencies, advocacy and industry bodies as well as specialist advertising agencies were interviewed. Although most of the interviewed stakeholders were based in Gauteng, they provided services across the country and they were able to provide relevant inputs. Additionally, the National Community Radio Forum (NCRF) provincial hubs were also interviewed. The details of the interviewed stations and stakeholders are attached in Appendix 1.

The interviews were conducted over a period of five months, between 27 June 2016 and 01 October 2016. They follow an initial desktop report (Internal Report), compiled by the Authority during the 2014/15 financial year⁶⁹, which highlighted challenges with the community broadcasting sector. The purpose of the interviews was to determine stakeholder understanding of the regulatory environment and challenges facing the community broadcasting sector; and to generate ideas on future approaches.

The interviews focused on the following areas:

are expected as the data is not current. Regardless of data limitations; unavailable records and time constraints; the Authority was able to undertake its research and analysis of the community broadcasting tier.

⁶⁹ *Internal Research Report on necessary interventions to support Community Broadcasting* by the Authority in the 2015/16.

- The general community broadcasting regulatory environment;
- Licensing and Compliance;
- Funding and support programmes;
- Governance, Management and Community Ownership;
- Planning and Strategy;
- Employment Practices;
- Financial management;
- Technical; and
- Programing.

5.2 The general Community Broadcasting Regulatory Environment

The interviews considered the effectiveness of the current community broadcasting regulatory framework, its application, and to obtain suggestions on the strategies that the Authority can implement to address the identified regulatory challenges. All stakeholders interviewed were aware of the community broadcasting regulatory environment and the Authority's role in it. The role was perceived as a licensing, monitoring and enforcement role, in essence, to provide rules of engagement and clarity in terms of what the licensees can or cannot do. The developmental role played by community broadcasting was recognised, and the respondent maintained that regulation should facilitate this objective. They recognized that the stations differed in terms of implementation of the regulation and profile of the communities served.

However, the majority of the respondents maintained that the basic principles behind community broadcasting, that is, public access, community participation and ownership, localized programming and non-profit making remained applicable to all stations, regardless of whether they were community of interest or geographically based. It was suggested that in reviewing the framework the Authority should focus on sustainability, which implies that licensees should have appropriate business models, understand and serve the needs of their market, and work towards developing sustainable revenue streams.

The positive impact of community broadcasting Regulations was noted, with stakeholders highlighting the fact that Regulations had promoted diversity of voices and services, local programming, and representation, as evidenced by the number and profile of community stations licensed by the Authority. However, implementation by stations and enforcement by the Authority has not always been successful. While stations were aware of the Regulations they were selective in their compliance, particularly with regards to corporate governance and community participation.

Additionally, the legislation and licensing processes had unintended consequences with stations being licensed without due consideration given to the applicant's sustainability and their impact on incumbents' revenue.⁷⁰ Licensing of stations with almost similar format in close proximity with each other further compromises sustainability. The majority of stakeholders were of the opinion that policies and licensing could be strengthened to address this and other shortcomings.⁷¹

5.2.1 The scope of Community Broadcasting Services

The current statutory definition of community broadcasting covers the following elements:

- *fully controlled by a non-profit entity and carried on for non-profitable purposes;*
- *serves a particular community;(geographic and community of interest)*
- *encourages members of the community served by it or persons associated with or promoting the interests of such community to participate in the selection and provision of programmes to be broadcast in the course of such broadcasting service; and*

⁷⁰ the Moratorium, 2016 Amendments to introduce two window period and an ITA for Spectrum.

⁷¹ In order to facilitate a more orderly licensing process the Authority amended the Processes and Procedures Regulations for Class Licences, and made provision for two window periods for applications for community broadcasting service licences - which can only be done with the ITA for spectrum licence. It also issued a moratorium on applications of for community sound broadcasting services and radio spectrum licences to address congestion in this band. The moratorium will remain in force pending finalisation of the framework for community broadcasting services.

- *may be funded by donations, grants, sponsorships, advertising, membership fees or by any combination of the aforementioned.*⁷²

It was proposed that the Authority should consider revising these elements and expanding the footprint of community stations. A number of proposals were advanced on how this could be done, including consolidating the existing stations into provincial based entities, and linking stations to local and provincial government structures. It was argued that this would increase the stations audience base and thus advertising revenue share. It was also argued that linking stations to local and provincial structures will make them more accountable. Further, some stakeholders are advocating for a national community of interest station, given the fact that some interest communities are nationally based.

It should however, be noted that expanding the stations footprint could have an unintended consequence of increasing transmission costs, and might not yield the anticipated audience figures. Therefore, suggestions of expanding stations' coverage should be balanced against costs and the wider impact they would have on the other tiers of broadcasting.⁷³

5.2.2 Geographically based versus community of Interest

The current community broadcasting licensing framework makes provision for geographic based and community of interest based stations. The former broadcasting services are meant to cater for the needs of persons or a community whose communality is determined principally by them residing in a particular geographic area, and the latter broadcasting services caters for the needs of a community with an ascertainable common interest. The distinctive feature of the service is the common interest that makes such a group of persons or sector of the public an identifiable community. In essence, these services cater for institutional

⁷² The Broadcasting Act No 4 of 1999

⁷³ In this instance section 16(1) of the EC Act read with section 5(3) must be considered. These section confine community broadcasting services to a given geographic location. Accordingly, class licensees are precluded from having the same coverage as individual licensees.

communities, e.g. academic campuses, or companies, cultural communities, religious interest groups/ communities, or any other identifiable community.

Because of the differences in the target audience, and the fact that community of interest stations generally fare better in terms of resources and management, the interviews sought to establish whether this warranted a different approach for both services.

There are differing views on the approach that the Authority should take in regulating geographic and community of interest stations. Some stakeholders held the view that the two are operationally different and that regulating these categories has a cost impact on the latter as additional costs are incurred in implementing Regulations that were more suited to geographic community stations. Others held the view that the basic principles of community broadcasting should apply equally to both.

Some of the community of interest stations were of the opinion that the rules were too stringent and did not account for the nuances of community of interest stations. Campus stations were used as an example to indicate the complexity of regulating community of interest stations, and why some of the requirements for community stations would be difficult to apply.

Firstly, the transient nature of the student community means that the stations footprint cannot be limited to campuses as they must serve the student needs beyond the parameters of their institutions. Campus stations also served the broader community as result of their public service mandate and therefore collaborated with other institutions outside campuses.

Additionally, there are differences within the campus station category, and a distinction must be drawn between campus based community radio station and a campus community radio station. The former is a community station which happens to be located on campus, as such the rules applicable to a geographic community should be applicable to it. Whereas the latter is a community of interest, and therefore members of the broader community have little or no say on the station. Secondly, stations tend to operate according to the school calendar. Therefore, during

vacations, stations either do not operate or are taken over by the broader community when the university closes.

In the final analysis, opinions differed based on the sectors that stakeholders participated in. Most of the stakeholders from the developmental, advocacy, funding, public broadcaster and geographic community sectors maintained that it was important to retain and promote the legislated mandate of community broadcasting services, that is, community participation and representation, diversity of views, localized content and reinvesting the profits into the community.

5.2.3 Community Radio versus Community Television

Stakeholders also held differing views with regards to the Authority's approach to community radio and community television. Despite the fact that community television stations have high start-up and operation costs, most stakeholders were of the opinion that they should have the same regulatory imperatives as community radio. Since both were licensed to serve a defined community, the business case for both remained the same and both required the same level of professionalism and state of the art equipment. Furthermore, community radio and television both have the same regulatory imperatives and therefore their management and funding should be along the same principles.

The alternative view cited high costs of operating television as either warranting more relaxed requirements, thus allowing commercial investors and management partnership, or more concerted government funding. Specifically, stakeholders advocated that policy should make provision for a special fund for community broadcasting services.

5.2.4 Community Stations Legal Constitution

Stakeholders highlighted the rise of entities registered as Trusts. They maintained that the flexible nature and less stringent requirements posed a challenge to monitor and enforce requirements of community broadcasting. In this regard the Authority must make a clear determination of what standard/ entity is acceptable or not. The stakeholders are of the view that ICASA should give a clear directive on the kind of

entities to be licenced. Requirements should be streamlined and aligned with principles of community broadcasting regardless of their legal constitution.

5.3 Licensing and Internal Processes

The interviews were also used to establish the effectiveness of the current licensing and enforcement framework, that is, to obtain information on the challenges associated with this framework and the stakeholders' proposals on the strategies that the Authority should implement to remedy these challenges.

There is general concern with a lack of efficiency in the Authority's internal processes including licensing, monitoring and enforcement. Mainly due to the manner in which the license conditions and Regulations were written. The respondents highlighted the unintended consequences of the relaxed class licensing process, resulting from section 17 of the EC ACT. This has resulted in the relaxation of licensing criteria, in comparison to the previous process which amongst others made provision for public hearings and representations. This has resulted in a proliferation of incompetent stations which threatened the sustainability of new applicants and incumbent stations. Licensing of stations with an almost similar format in close proximity with each other further compromises sustainability.

Shareholders proposed reverting to a more structured Invitation to Apply (ITA) process and having public hearings for community licensees. The challenge lies in balancing the efficiency of a registration process against a stringent and structured licensing process so that competent stations are licensed and revenue sources are protected for all community radio stations.⁷⁴

⁷⁴ In order to facilitate a more orderly licensing process the Authority amended the Processes and Procedures Regulations for Class Licences, and made provision for two window periods for applications for community broadcasting service licences - which can only be done with the ITA for spectrum licence⁷⁴. It also issued a moratorium on applications of for community sound broadcasting services and radio spectrum licences to address congestion in this band⁷⁴. The moratorium will remain in force pending finalisation of the framework for community broadcasting services.

5.4 Corporate Governance and Management

The internal report highlighted corporate governance and management as a major challenge. Therefore, the interviews were used to establish methods that can be applied to remedy corporate governance and management problems as well as to establish community participation.

5.4.1 Corporate Governance

The majority of community broadcasters have policies and systems in place, however, stakeholders indicated that there were implementation challenges in less resourced and underdeveloped stations. This problem manifests in several ways, ranging from a lack of properly constituted boards, to community and political interference, to poor financial and operational planning. These were mainly due to role confusion between management and board responsibilities. It was submitted that the Authority should consider having more explicit requirements in community broadcasting Regulations and license conditions in order to remedy this concern. In addition, it was suggested that the Authority, in partnership with development agencies, should develop and implement guidelines on community broadcasting corporate governance, management and operations to complement the proposed governance and management provisions.⁷⁵

5.4.2 Training and Capacity Building

The internal report further found that some of the challenges experienced by the sector can be attributed to a lack of skilled personnel to manage administrative aspects of stations. The stakeholder's interviews were used to obtain a comprehensive view of the community broadcasting sector's skill level, employment practices, staff retention and skill development initiatives.

Stakeholders acceded that a lack of capacity was the major source of the problems experienced by the community broadcasting sector. Many stations did not have sufficient skills to meet the technical and management requirements of stations. The

⁷⁵ Regulation 14 of the amended Standard Terms and Conditions Regulations for Class Licences explicitly prohibits political office bearers from playing any role in the Board, Management and staff of a community sound broadcasting services.

main areas where such deficiencies existed, include technical skills, programme production and management of community broadcasting stations.

While stations have Human Resource Policies in place, their level of application differed depending on the station's resources and business case. The community broadcasting sector is unable to retain skilled staff which is lost to commercial and public sectors. However, this was viewed as a positive development, indicating that sector was indeed fulfilling its developmental mandate and attracting people to the broadcasting sector.

The challenge lies in developing and retaining sufficient skills to sustain the sector. A number of interventions were proposed to achieve this including structured initiatives between developmental agencies (Media, Information and Communication Technologies Sector Education and Training Authority (MICT SETA) Universal Service and Access Agency of South Africa (USAASA), Sentech, MDDA, and NEMISA), developing accredited courses and establishing mentorship programmes with the public and commercial sectors.

5.4.3 Financial Management

The internal report also found that financial management and revenue generation capacity by community stations have a big impact on their sustainability. The interviews were used to establish the stakeholder's views on the general financial status quo of this sector, strategies that stations apply to sustain themselves financially and the strategies that the Authority could employ to support the financial sustainability in this sector.

Similar to the findings of the internal report, stakeholders were of the view that despite having policies and auditing their finances, some stations did not have capacity to effectively manage their finances. It was argued that this could be addressed by only licensing stations with sound business cases and skills, and supporting the licensees by developing and implementing a standardized guide on financial management and station operations.

5.4.4 Technical Capability

Technical capability and signal distribution cost were also identified in the internal report as challenges. These challenges are historical where the first community stations were provided financial and technical support by the Department of Communication and Sentech. The interviews were used to establish stations' technical capabilities, to obtain their views on the effectiveness of support programmes implemented by government as well as strategies that can further be employed by the Authority to improve stations' technical capabilities.

The majority of stations had limited technical capability and relied on outsourcing technical tasks to external providers. However, they also maintained that Sentech as a preferred service provider in most instances, provided poor quality of service to community broadcasters. Stakeholders also highlighted that the Authority was not sufficiently monitoring and providing technical support to the stations. The state of affairs has become dire since some stakeholders claim that signal distribution support scheme by the DoC through Sentech has been discontinued. Licensees now have to pay exorbitant signal distribution costs, further worsening their precarious financial condition. Stakeholders maintained that there is still a need for the regulator to intervene in the pricing of the signal distribution.

5.4.5 Strategic Planning and New Technologies

As Small, Medium and Micro Enterprise (SMMEs) entities it is important for stations to plan appropriately in the face of the market and technology changes in their operational environment, and to device strategies to ensure their success and sustainability. Interviews were used to establish the sector's strategic and operational planning capabilities and foresight. They were also intended to solicit their views on which strategies the Authority should adopt to encourage this. The impact of new technologies (especially DTT on community television) on the stations sustainability as well as mitigation strategies were also considered.

Stakeholders believe that training is key to station sustainability, and indicative of stations' corporate governance capacity, where the roles are clearly defined and board members fully exercised their fiduciary responsibility. However, while stations

understood the value of long term planning, very few undertook formal strategic planning. The lack of strategic planning was exacerbated by the Authority's licensing regime for community stations, which has been less stringent and has resulted in less competent boards and management being granted licenses. It was suggested that, from a regulatory perspective, the Authority should consider potential licensees board expertise and competence before granting licenses and as such ensure that only stations that have governance expertise are licensed. Where stations undertook strategic planning the results differed based on resources and skill. The majority focused on positioning stations to derive maximum advertising revenue from their operational environment.

Although in the short-term DTT may not have as far reaching an impact on community broadcasters as with the public and commercial tiers, its impact must be anticipated. Most stakeholders indicated that the sector was not prepared for the revenue and cost impact stemming from audience and advertising revenue fragmentation, as well as increased signal distribution costs.

Stations lack both the technical skills and management skills to address the DTT migration requirements. However, some stakeholders, albeit from the more resourced stations, felt that other technologies such as DAB+ be afforded the same focus given to DTT. Stakeholders indicated that DAB+ is likely to have the same wide ranging impact as DTT, that is, introducing a new licensing approach, shifting audience listenership patterns and revenue models.

5.5 Community Participation

The Authority considers community participation and ownership as key components of corporate governance within the community broadcasting sector. Various methods are applied to encourage participation including, annual general meetings, board elections, selection and provision of programming, and volunteering. However, the internal report indicated that these methods applied to establish community participation may no longer be appropriate

Stakeholders were of the opinion that while the sentiments around community participation were noble, its execution was highly problematic. It was suggested that the Authority should create a standard and criteria for community participation, which would serve to clarify the roles and responsibilities of community members in relation to management and board responsibilities.

In this instance oversight and management competence must be balanced against granting the community participation. A number of options were suggested to achieve this including, participation through civil organizations, which would provide a provided a more structured and accountable way for the community to participate in stations' structures, and in addition, expertise to strengthen the stations capacity. The key aspects were highlighted as affecting community participation were management agreements and the non-profit nature of community broadcasters.

5.5.1 Management Agreements

Community television services have sometimes resorted to management agreements or partnership agreements to fund their start up and operational costs. With the promulgation of the Process and Procedure Regulations for Class Licenses, management contracts were rendered illegal.

A number of stakeholders have indicated that there was merit in community stations entering into partnerships provided that the mandate and objectives of community broadcasting are not diluted. They even went to the extent of advocating for the Authority to provide guidance in terms of what form these agreements should take. This might be difficult to implement given that the Authority's Regulations are not in favour of management agreements between commercial entities and community stations.

However, the Authority must consider stakeholder views that partnerships with commercial entities were sometimes necessary for their financial sustainability. It might have to review its position on management agreements, but must implement stringent controls to mitigate against investors' commercial imperatives diluting the community broadcasting mandate and objectives as well as to ensure that stations retain editorial control.

5.5.2 Nonprofit Status

In line with legislation and the mandate of community broadcasting, stations are required to operate on a non-profit basis, and to reinvest their revenue into the communities that they serve. The interviews were used to establish stakeholders' views on whether the non-profit principle still applied to community broadcasters.

Stakeholders differed in terms of whether the non-profit status of community stations should remain in force. Those that were in favour were of the opinion that the Authority should provide further guidance and clarify on non-profit requirements. These should include guidelines on profit and reinvesting into the sector, including the manner and criteria of reinvesting into the community. The alternative view indicated that commercialisation of stations would encourage them to operate more professionally and thus add value to the communities where they are based. These stakeholders felt that private funding should also be permitted to attract investment and sustain community broadcasters, this said, editorial independence should still be maintained. In essence private funding should not be confused with private ownership.

5.6 Funding Approaches and Support Programmes

Funding and revenue strategies are key to the sustainability of this sector. Therefore, the interviews were used to establish stakeholder views of the funding status quo as well as strategies that can further be employed to improve station's funding and sustainability strategies. The internal report noted that community television required a higher level of investment and financial commitment and thus, the funding challenges faced by community television could be greater. The interviews sought to establish alternative funding strategies that could be employed to ensure sustainability of this sector, given the high costs of providing community television services.

5.6.1 Advertising and Revenue Diversification

Stakeholders acceded to the fact that stations' long term sustainability depended on their ability to diversify their revenue streams. The fact that stations depend on

advertising revenue and lacked capacity to develop revenue diversifications strategies.

It was specifically noted that remote rural broadcasters struggle to access funding in any form, whether it be donor, MDDA funding or advertising revenue. Furthermore, stakeholders were of the view that advertisers prioritize stations with larger audiences mainly based in metropolitan areas. Stations' inability to attract sufficient advertising revenue can be attributed to a lack of professionalism, noting the following key impediments:

- Lack of value proposition, beyond the normal rate card method;
- Inability of stations to demonstrate return on investment for entities that they are approaching to advertise;
- Lack of systems and financial accountability; and
- Restrictive Regulations and license conditions which limit stations' ability to use relevant content that is attractive to advertisers.

Despite this, stations must develop strategies to source other funding streams to be sustainable. A number of avenues were suggested including; direct provincial, local and national government funding; airtime sales; Corporate Social Investment (CSI) funding, commercial agreements with production companies – including those where a broadcast fee is factored into sponsorship agreements. This, however, required that stations be exposed to alternative means of funding and be trained on strategies for sourcing funding beyond advertising revenue.

5.6.2 Community Broadcasting Fund

Stakeholders maintained that given the stations capacity and other challenges and in spite of having multiple sources of funding, stations must be funded or supported by government in order to be sustainable in the long run. However, the current policy and legislative environment does not consider the funding of community broadcasters through government funds.

It was suggested that a more direct and coordinated funding strategy is required for government intervention to be effective. This could be in the form of a centralised community broadcasting fund, similar to the Public Broadcasting Services (PBS)

funding, and coordinated and managed by a single agency, such as the MDDA. Funding should be based on a stations needs analysis, and managed and monitored stringently. In addition, regular impact assessments should be conducted to assess the impact of the fund.

The fund can also be used to complement the Authority's regulation by serving as an incentive for stations to comply with the Authority's regulatory requirements. As such it should only be availed to properly constituted and complaint stations. Some broadcasters are proposing that either national or provincial government should reserve funds for the sector when developing their communications strategies. It was recommended that the implementation mechanisms of this fund should be subjected to further research, before the final model is implemented. They further recommended that this should be benchmarked against existing models, applied in other countries.

5.6.3 Adequacy of Support Programmes

Stakeholders acknowledged efforts by the DoC, MDDA, National Electronic Media Institute of South Africa (NEMISA), and Sentech funding and support initiatives. Stakeholders also noted that there were proposals to have a community television fund and to dedicate 30% of government advertising to community media. They however noted that these initiatives were nationally based and argued that they would be more effective and easier to implement if they were supported by provincial and local government structures. It was also indicated that the signal distribution subsidy by the DoC through Sentech has been discontinued. Licensees now have to pay the full signal distribution costs, which generally comprises of the bulk of the stations expenses, thus worsening the stations' precarious financial condition. Concerns were also raised with the lack of coordination and direct relevance of government support.

It was recommended that these initiatives must be consolidated and streamlined to avoid duplication and double dipping by the beneficiaries of these programmes. It was highlighted that the relevance and focus of these programmes has changed in a way that no longer serves the sector, and that they should be revisited. Funding

should be based on a needs analysis. Currently the programmes focus on maintenance, programming and signal distribution, whereas the station's need's fluctuate based on their level of maturity and operating cycles.

A centralized and structured approach to funding was proposed, with funding programmes used to incentivize compliance and facilitate stations sustainability. Some of the suggestions that were made are as follows:

- An annual subsidy applied consistently and transparently across all stations based on their needs;
- A graded subsidy structure to incentivize compliance and proper constitution of governance and management structures; and
- Strategic partnerships between regional commercial and public broadcasters to mentor, upskill and assist with technical maintenance for non-functional community stations.

5.7 Programming

Community stations' programming should be distinct from commercial and public broadcasting and is intended to be an alternative source of information, education and entertainment for local communities. The interviews sought to establish strategies and mechanisms that are employed by community broadcasters to distinguish their programming from the other categories, that is whether they served their communities in terms of good quality locally sourced programming using the local language. They specifically sought to establish the methods and formats that were employed by community stations in sourcing news programming.

Stakeholders indicated that community programming varied depending on the demands faced by the stations. In some instances, stations felt compelled to clone public and commercial stations especially where there was direct competition for advertising revenue. However, they also argued that there have been cases where public and commercial stations copy popular programming from community broadcasters. It is easier for community of interest stations to provide programming unique to its audiences, as community of interest stations are defined by their programming and remain unique to the community served.

Some stakeholders were of the opinion that challenges with distinguishing community programming from the other tiers' was a result of the licensing process where the Authority did not review market conditions and did not account for station's profiles as well as their programming needs. Programming requirements placed on community broadcasters have changed and they must be revisited in order to remain relevant. Three areas were highlighted as key to securing community programming, these being whether programming was of local origin, availability of programming resources and content acquisition strategies for community television.

5.7.1 Local Origination

Local origination is one of the most important defining features of community broadcasting. Firstly, because community broadcasters are expected to provide a distinct broadcasting service dealing specifically with community issues which are not normally dealt with by other broadcasting services covering the same area. Secondly, they should focus on the provisioning of programmes that highlight grassroots community issues, including, but not limited to, developmental, issues of concern, health care, basic information and general education, environmental affairs, local and international matters, and the reflection of local culture. Furthermore, programming should be aimed at promoting the serviced community's interests which is initiated, produced and broadcast by members of the community including encouraging, sourcing and production of localized news and actuality programmes, as well as setting realistic and implementable format and language imperatives.

Stakeholders submitted that this is best facilitated through programming policies which outline editorial policies and guide station's programming approach, imaging and messages communicated through the stations.

5.7.2 Programming Resources

Stakeholders felt that the Authority should revisit its approach and requirements for local programming, and in so doing consider the resource constraints and financial implications for stations in fulfilling these requirements. For example, stations sometimes do not have resources to create good quality local news programming. In

order to improve on the quality of programming, community broadcasters require correct devices, training and equipment.

5.7.3 *Community Television Programming*

The above principles are also applicable when it comes to community television. Some stakeholders felt that the distinction between community TV and Public TV content was superfluous. The stakeholders felt that the major distinctions were coverage and language. However, reliance on advertising as a major source of revenue and the type of programming were similar to both license categories. Therefore, the argument made here is that the issue of distinct programming must be examined closely to really identify the unique selling point of community generated content.

5.8 Conclusion

Stakeholder interviews were aimed at evaluating the understanding of the regulatory environment and challenges faced by the community broadcasting sector, and to generate ideas on future approaches to regulation to ensure the sustainability of the sector. They are based on the findings of an internal study conducted by the Authority in the 2015/16 financial year, which highlighted challenges within the community broadcasting sector, mostly associated with compliance, licensing, corporate governance, operational, funding and programming challenges, which in turn have had a negative impact on sustainability and regulation.

The interviews confirmed most of the challenges raised in the internal report and expanded on the nature and the source of these challenges. The results highlighted the following areas for further probing by the discussion document:

- The scope of and regulation of community broadcasting services;
- Positions/proposals on community broadcaster's non-profit status;
- Licensing and improving efficiency of the Authority internal processes;
- Corporate governance and management guidelines;
- Financial management and revenue diversification strategies;

- Positions/suggestions on revision of the Authority's position on management agreements;
- Operational capacity including technical and administrative capacity;
- The efficacy of community broadcasting support programmes; and
- Community broadcasting programming strategies.

6. INTERNATIONAL BENCHMARK

6.1 Introduction

The purpose of this section is to benchmark international best practice in establishing a community broadcasting regulatory framework; establishing the best funding and operating models for community radio and television.

The section considers models applied in Australia, Canada and Ireland. These countries have been selected based on their similarity to South Africa in terms of the three-tier system of broadcasting (comprising of the public, commercial and community sectors) and active promotion of community broadcasting in their respective countries. They enjoy an active and vibrant community broadcasting sector that is underlined by comprehensive regulatory frameworks and government support for this sector. Additionally, South Africa can draw from the licensing approaches and conditions adopted by these countries in promoting financial sustainability for community television and licensing community broadcasting services in a digital environment.

6.2 Legislative, Regulatory and Licensing Framework

This section benchmarks the legislative and regulatory licensing frameworks applied in Australia, Canada and Ireland in relation to community radio and television. The intention is to garner the best practice in terms of strengthening the South African community broadcasting legislative and regulatory framework. These are summarised in the table below;

Country/ Regulatory Body	Key Legislation	Licensing	Regulatory Approach
AUSTRALIA The Australian Communications and Media Authority (ACMA)	Broadcasting Services Act of 1992	<ul style="list-style-type: none">• Licensing and renewal criteria, approach and timing determined by ACMA• Renewal based on compliance and performance• Distinct licensing conditions for community television and community radio, and analogue and digital radio services.• Legislation allows for licensees to change their community of interest.	<ul style="list-style-type: none">• Detailed licensing conditions outlining acceptable practices by licensees.• Community Radio Broadcasting and Community Television Broadcasting Codes of Practice.

Country/ Regulatory Body	Key Legislation	Licensing	Regulatory Approach
CANADA The Canadian Radio-television and Telecommunications Commission (CRTC) Canadian Heritage Department (CHD)	<ul style="list-style-type: none"> • The Broadcasting Act of 1991 • The Broadcasting Regulatory Policy CRTC 2010 – 499) 	<ul style="list-style-type: none"> • Competitive licensing process. • Phased/ pilot licensing to determine the feasibility of licensees. • Allows for profit organizations to apply for a category of community television license (independent community television services) 	Stringent programming and language requirements, aimed at protecting Canadian identity and promoting linguistic diversity.
IRELAND the Broadcasting Authority of Ireland (BAI)	The Broadcasting Act 2009	<ul style="list-style-type: none"> • Licensing at the discretion on BAI. • BAI Issues licensing strategy and plans to determine the number and categories of licenses (across all licensing categories) – therefore considers feasibility and diversity of the broadcasting system in its totality • Phased/ pilot licensing to determine the feasibility of licensees. • Additional licensing category for temporary and institutional sound licenses- campus stations can fall into this category 	Detailed definition of community participation and ownership

Table 9 Legislative, regulatory and licensing framework

6.2.1 Australia

Key Legislation

The Broadcasting Services Act No. 110 of 1992 as amended (BSA) sets the regulatory and licensing framework in Australia. The regulator, the Australian Communications and Media Authority (ACMA) is responsible for licensing stations and ensuring compliance with legislation and Regulations.

Community broadcasting is established in terms of Section 79, Part 6 and 6A of the BSA. The mandate of community broadcasting is similar to the South African model, in the sense that community stations are expected to serve a distinctive community of interest, encourage community access and participation in all aspects of station operations, from programming to management, broadcast for the benefit of a community and operate on a non-profit basis. However, legislation allows for applicants to change their initial community of interest upon renewal, and sets limits on advertising, in the sense that stations are only allowed to broadcast sponsorship announcements, rather than advertising, which totals no more than five minutes in any hour of broadcasting⁷⁶.

Licensing

Contrary to the class registration process applied in South Africa⁷⁷. ACMA has the prerogative to decide when to license, the number of licences granted, and the format used to lodge applications. This prerogative allows ACMA to priorities areas that need community services, avoid duplication of similar services within same coverage areas and grant community licences that have a greater chance of succeeding in the long run. Likewise, with the renewal process ACMA is able to evaluate whether the licensee

⁷⁶ Community Radio Broadcasting: Codes of Practice. 23 October 2008, Page 2.

⁷⁷ In accordance to the licensing framework contemplated by The Electronic Communication Act No. 36 of 2005 (the EC ACT), community broadcasters are merely registered (section 17). The process also limits ICASA's (the Authority) right to reject licenses or close and close the application process. Similarly, in terms of section 19 of the EC ACT, the Authority does not have leeway to refuse a license renewal in the sense this section only requires the Authority to update its register upon receiving an intention to do so from the licensee. Therefore, the current legislation does not allow for a rigorous process of assessing what the licensee has been able to do in the first broadcast period, a process of ensuring that the licensee can account for its successes and failures and also provide mechanisms of how to correct the failures to ensure better prospects of success and compliance with law.

has met the merit criteria, fulfilled the community broadcasting mandate over the first five years of broadcasting and whether it has the capacity to continue fulfilling the mandate. This strategy has led to community broadcasting services being a progressive sector, for with every renewal, ACMA and licensees have an opportunity to address challenges that are likely to undermine sector developments⁷⁸.

The Australian legislative framework further makes provision for the set-up, operational, resources, administrative and programming differences between community radio and community television services. Contrary to the South African system which treats both platforms the same and applies a regulatory and licensing framework that was meant for community radio to community television, the Australian system makes a distinction between the two. As such section 87A of the BSA makes provision for license conditions specifically for community television licensees. Legislation further makes a distinction between digital and analogue broadcasting services, and section 84A of the BSA makes provision for radio services to provide either analogue or digital services.

The BSA further provides for detailed license conditions applicable to community broadcasting services. The conditions detail what is acceptable and what is prohibited for various community services⁷⁹. The ACMA may also impose additional conditions for individual licensees where it deems fit. These conditions augment the requirements already covered in the BSA and provide an additional measure of ensuring that community licensees comply with the law.

Regulatory Approach

The Australian system relies on the following self-regulation codes specifically tailored for community radio and television administered by industry bodies.

- The Community Radio Broadcasting Codes of Practice (Radio Code) deals with a variety of issues that seek to ensure sector growth and development, while

78 Meeting the ACMA Standard: The ACMA's Community Broadcasting and Safeguards Section. Retrieved from, http://www.acma.gov.au/webwr/case%20studies%20b/The_ACMA's_Community_Broadcasting_Section_Case_Study.docx.

79 Broadcasting Services Act 1992 Act No. 110 of 1992 as amended. Section 86-87.

fostering compliance with legislation and license conditions. The radio code largely addresses content compliance, diversity, community participation and governance matters⁸⁰.

- The Australian Community Television Broadcasting Codes of Practice (Television Code) covers subjects similar to the Radio Code, but are specifically tailored for community television. The television Code deals with governance arrangements, matters related to representing the community interest, content related topics and funding issues⁸¹.

A Key element of the benchmark is establishing the specific mechanisms that AMCA employs to encourage corporate governance and community participation. In this regard, ACMA provides detailed licensing conditions outlining acceptable practices by licensees. Additionally, there are Community Radio Broadcasting and Community Television Broadcasting Codes of Practice which cover corporate governance related practices and guidelines, and specifically ACMA's Community Broadcasting Participation Guidelines.

In terms of the legal constitution Australian community broadcasting services are not for profit making initiatives, they must serve media needs and interest of their respective communities. This is done without any shareholder structure that allows individuals or an entity to accrue monetary return of investment as a reward for participation in the licensees' structures. "Community radio licensees must be a company, including an incorporated association, while community television licensees must be a company limited by guarantee within the meaning of the Corporations Act 2001."⁸²

All community television licensees must, under section 81 of the BSA, be licensed as a company limited by guarantee as stated in Corporations Act 2001⁸³. The governance structure must be along the professional lines of commercial

80 Community Radio Broadcasting: Codes of Practice. 23 October 2008.

81 Community Television Broadcasting: Codes of Practice. 009 June 2011.

829Meeting the ACMA Standard: The ACMA's Community Broadcasting and Safeguards Section. Retrieved from, http://www.acma.gov.au/webwr/case%20studies%20b/The_ACMA's_Community_Broadcasting_Section_Case_Study.docx.

83 ibid

broadcasting, without compromising the not-for-profit mandate. They must have guiding documents or a Constitution which provides clear and distinct roles for all layers of governance. This must include directors, volunteers and community members. The ACMA'S Community Broadcasting Participation Guidelines has an extensive explanation of what is expected from each layers of governance⁸⁴.

Australian community radio licensees are not expected to have rigid and extensive governance as compared to community television. This is because of slightly lower expenses that are needed to start and operate a community radio licence. However, stable and formal governance structure are still a necessity to ensure the licensee delivers on the community broadcasting mandate. Code 1.1 of the Radio Code succinctly states that "[e]ach community radio station will be controlled and operated by an independent body that represents its community of interest". The responsible body can only deliver on the community broadcasting mandate if within its structures it ensures that community and stakeholder views are given a platform among various layers of governance.⁸⁵

Monitoring and Enforcement

The ACMA monitors broadcasting and enforces compliance with relevant laws of the sector. The BSA empowers the ACMA to deal with breaches of the sector rules through various enforcement instruments available to it. The ACMA may force enforcement through additional licence conditions, revoke a licence or issues remedial direction where necessary⁸⁶. These instruments must be contained in the enforcement guidelines, which is to be formulated and administered by the ACMA.

In enforcing compliance, the ACMA attempts to avoid punitive measures. Instead, the regulator seeks to encourage and facilitate compliance by all stakeholders.⁸⁷ Any enforcement action is determined by specific transgression. All cases are treated

84 Broadcasting Services Act 1992 – Enforcement Guidelines of the ACMA. Retrieved from, <http://www.acma.gov.au/theACMA/media-regulation-enforcement>.

85 Community Radio Broadcasting: Codes of Practice. 23 October 2008. Page 4.

86 Broadcasting Services Act 1992 – Enforcement Guidelines of the ACMA. Retrieved from, <http://www.acma.gov.au/theACMA/media-regulation-enforcement>

87 ibid

individually, there is no automatic sanction. The only consistent factor with all licensees is the remedial measures that seek to encourage and facilitate compliance.

The remedial action specified by ACMA must be; proportionate to the impact of the conduct or risk of future contraventions; expressed in clear and unambiguous language; reasonably capable of implementation within any time specified for compliance; capable of being measured or tested objectively⁸⁸. ACMA has the power to take non-compliance with remedial measures to the Federal Court and is also considered a criminal offence.⁸⁹

Alternatively, the Federal Court and criminal offence route may be avoided and ACMA may opt to suspend or cancel a licence once a licensee has shown disregard for various remedial measures. After ACMA has made a determination to suspend or cancel a licence, it will identify issues of concern and notify the licensee of proposed action. The licensee will still be afforded an opportunity for representation regarding the proposed cancellation or suspension of a licence⁹⁰. In instances where the decision is not changed after final representations, the ACMA will publicise the cancellation or suspension⁹¹.

Community radio services must develop processes of handling complaints by all stakeholders including members and volunteers. The Radio Code enjoins all radio licensees to develop complaints mechanisms that will detail how complaints will be handled and the turnaround times for complaints process. Complainants must first utilise the licensees' complaints process before approaching the ACMA. This can be done if no response is received within 60 days or they are not content with the licensees' response⁹². A licensee must keep a record of complaints and accompanying responses for two years from the date of complaints.⁹³ These records must be made available to the ACMA on request.

88 *ibid.* page 5.

89 *ibid*

90 *ibid*

91 *ibid*

92 Community Radio Broadcasting: Codes of Practice. 23 October 2008.

93 *ibid*

Community television services must similarly develop a process of handling complaints by stakeholders. However, the complaints process “is not intended to cover situations where there is conflict between a licensee and members and/or volunteers, where the goals, values, interests or opinions of one individual or group are incompatible, or perceived to be incompatible, with those of another individual or group”.⁹⁴ This is because licensees must make available records of how they have dealt with complaints and the ACMA is not mandated to resolve these type of complaints.

Contrary to the 60 days afforded to radio services, community television services have to “respond promptly to written complaints received by a licensee within 30 days of the relevant broadcast and make reasonable efforts to resolve them”.⁹⁵ Complaints should be in writing and must be related to issues covered by the Television Code.⁹⁶

6.2.2 Canada

Key Legislation

The Canadian broadcasting systems is governed by the Broadcasting Act of 1999. Section 3(1)(b) of the Broadcasting Act establishes community broadcasting services. Similar to South Africa, the framework provides for a three tier system, comprising of public, private and community/campus services.⁹⁷ The Canadian Radio-television and Telecommunications Commission (CRTC) is responsible for regulating the sector.

Accordingly, community stations are defined as not-for-profit organisations that facilitate community participation in all aspects of their operations. The policies further emphasise that programming must be of a local nature, distinct and

94 Community Television Broadcasting: Codes of Practice. 09 June 2011. Page 18.

95 *ibid*

96 *ibid*

97 Essentially these categories are not treated differently and fall within the ambit of one policy framework. The role and mandate of campus and community radio are the same. The notable difference is only where campus radio section emphasizes the central role of the student body and the involvement of the campus representatives in the board of directors.

complementary to the public and commercial programming and reflect the interests of the target audience.

In addition, both categories are expected to comply with ownership and control requiring that stations should be controlled by Canadians, at least 80% of the directors (including those involved in the daily operations of the station) should be Canadian. To ensure that this is adhered to, all campus community radio stations must submit annual updates on the composition of the board of directors either “at the time of submission of annual returns; following annual board of directors’ elections; or at any other time.”⁹⁸

With the CRTC review of community and campus station policies in 2010 ⁹⁹, the CRTC has simplified/ streamlined licensing process and introduced funding support for the sector sourced from Canadian content development contributions from commercial radio stations¹⁰⁰.

Licensing

The CRTC employs a phased licensing approach, where stations are initially licensed as low-power developmental community stations before they are licensed for three years as full-fledged community broadcasters. Thereafter the licensee is expected to apply for a regular community radio license or to cease operation¹⁰¹. Unlike the class registration process in South Africa, this is a competitive process. When assessing applications, the CRTC considers the information on the public record and the needs of the market in evaluating whether the application should be approved.

Regulatory Approach

While the CRTC is supportive of industry self-regulation and licensees are required to adhere to codes developed by the Canadian Broadcast Standards Council (CBSC), content is stringently regulated in Canada. Requirements include the following:

98 CRTC, 2010, Broadcasting Regulatory Policy CRTC 2010 -622 -1; *Community Television Policy*

99 The Broadcasting Regulatory Policy CRTC 2010 – 499

100 The Broadcasting Regulatory Policy CRTC 2010-499, Campus and Community Radio Policy; accessed on <http://www.crtc.gc.ca/eng/archive/2010/2010-499.htm>

101 CRTC, 2010, Broadcasting Regulatory Policy CRTC 2010 – 499; *Campus and Community Radio Policy*

- Locally produced programming: BDUs are expected to provide access, training and assistance for community produced local content, expected to have been 50% by 2015.
- Prohibition on foreign content on community channels and a requirement of 80% Canadian programming per annum and also no less than 60% community programming-related expenditures to the broadcast of local programming¹⁰² per year¹⁰³.
- A requirement to consult community members to understand their media needs and interest in order to provide relevant local programming.
- A requirement for community television broadcasters to broadcast government and public service information material for free¹⁰⁴.
- Limitations on airtime afforded to advertising, not more than 12 minutes of local advertising material in any hour in a broadcast per day for local television, and not more than two minutes for promotional messages¹⁰⁵ limited to sponsorship for community channels¹⁰⁶.
- A balance of talk to music afforded airtime on community radio, where broadcasters should not comprise programming requirements when one type of programming proves to be more popular over others. Overall programming is expected to promote local Canadian content.
- A requirement that broadcasters adapt their musical programming to reflect the changing needs and interests of their own listeners, thus differentiating themselves from private stations¹⁰⁷.
- Funding incentive for community stations (not withstanding copyright issues) to use new media to reach as wide an audience as possible. And in considering the cost of producing local content, implementing new media approaches and

102 Local programming means station productions or programming produced by community-based independent producers that reflects the particular needs and interests of residents of the area that the community television broadcasting licensee is licensed to serve.

103 While this goes a long way towards encouraging local programming this might not be a feasible option in South Africa.

104 CRTC, 2010, Broadcasting Regulatory Policy CRTC 2010 -622 -1; *Community Television Policy*

105 Except when specified in the license conditions

106 CRTC, 2010, Broadcasting Regulatory Policy CRTC 2010 -622 -1; *Community Television Policy*

107 CRTC, 2010, Broadcasting Regulatory Policy CRTC 2010 – 499; *Campus and Community Radio Policy*

distributing programming by digital means could be offset by funding obtained from the CRFC.

- Linguistic diversity, requiring that broadcast programming to be representative of linguistic duality, and areas where there is a third language largely used other than the two official languages, community broadcasters are given flexibility to broadcast in those languages. In areas where there is no official language broadcaster, 40 per cent of third language programming may be used in a week. On the other hand, in areas where there is an official language broadcaster, a maximum of 15 per cent of the third language broadcast programming may be used¹⁰⁸.

Similar to the approach adopted by ACMA, the CRTC specifies community participation and governance requirements. It specifies the composition of the campus stations board and require reporting on compliance. Accordingly, community stations are defined as not-for-profit organisations that facilitate community participation in all aspects of the operations.

The policies further emphasise that programming must be of a local nature, distinct and complementary to the public and commercial programming and reflect the interests of the target audience. Stations are thus required to understand community members 'media needs and interest in order to provide relevant local programming, and are further required to adapt their musical programming to reflect the changing needs and interests of their own listeners, thus differentiating themselves from private stations¹⁰⁹. In addition, both categories are expected to comply with ownership and control requiring that stations should be controlled by Canadians, at lets 80% of the directors (including those involved in the daily operations of the station) should be Canadian. To ensure that this is adhered to, all campus community radio stations must submit annual updates on the composition of the board of directors either "at the time of submission of annual returns; following annual board of directors' elections; or at any other time."¹¹⁰

108 CRTC, 2010, Broadcasting Regulatory Policy CRTC 2010 – 499; *Campus and Community Radio Policy*

109 CRTC, 2010, Broadcasting Regulatory Policy CRTC 2010 – 499; *Campus and Community Radio Policy*

110 CRTC, 2010, Broadcasting Regulatory Policy CRTC 2010 -622 -1; *Community Television Policy*

Monitoring and Enforcement

In Canada, programming complaints about content standards fall under the high standard objective set out in Section 3(1) (g) of the Act and, when appropriate, the provision against the broadcast of abusive comment is set out in section 3(b) of the Regulations¹¹¹. The CRTC relies principally on the logs and records submitted by licensees to evaluate compliance, and non-compliance is examined on a case by case basis.

Licensees are required to comply with the Broadcasting Act, Regulations and their license conditions. Upon application to renew a licence, licensees have to satisfy the CRTC that they have been complying with these requirements. Licensees respond to the CRTC finding in writing regarding the licensee's compliance, and depending on the extent of non-compliance, a public hearing can be held. The licensee will demonstrate steps taken to remedy non-compliance and thereafter the Commission will impose sanctions based on the extent of non-compliance. Sanctions for non-compliance are based on "the quantity, recurrence and seriousness of the non-compliance".¹¹²

Possible sanctions include:

- short-term licence renewal;
- imposition of license conditions;
- mandatory orders;
- non-renewal, suspension; or
- revocation of the licence.¹¹³

6.2.3 Ireland

Legislative Framework

The broadcasting system in Ireland is governed through the Broadcasting Act of 2009 (the Broadcasting Act), and regulated by the Broadcasting Authority of Ireland (BAI). Similar to South Africa, stations are defined in terms of the community they serve,

111 Broadcasting Regulatory Policy CRTC 2011-308

112 <http://www.crtc.gc.ca/eng/archive/2011/2011-347.htm>

113 *ibid*

that is, either community of interest or geographically based community stations. The Broadcasting Act sets out the defining characteristics of community radio and television in sections 64, and 72, respectively. However, there is also a related category of institutional contracts (licences) covered under section 68¹¹⁴.

Section 64 defines a “community” in terms of members (accountable and representative of a community), programming (specifically addressing the interests of and seeking to provide a social benefit to the community concerned, and non-profit (achieving a monetary reward of no greater amount than is reasonably necessary to defray the expenses that will be incurred in effecting that supply)¹¹⁵.

The BAI goes further in specifying the following criteria to assess whether the applicants serve or represent a given community of relevant organisations and groups, and applicants are expected to:

- describe clearly the geographical community or community of interest served;
- promote and support active participation by this community at all levels in the operation; and
- operate in a manner which is in keeping with the ethos or value system which underpins community activity¹¹⁶.

Licensing

According to the BAI’s Broadcasting Services Strategy¹¹⁷ Ireland’s approach to community broadcasting is a developmental one, recognizing the challenges associated with starting and operating a community broadcasting service.

114 This category includes institutions such as campus stations

115 Section 64 of the Broadcasting Act of 2009

116 BAI, Guide to Submissions: - Provision of a community sound broadcasting service for North East Dublin, Version 1, June 2016

117 BAI, March 2012, *Broadcasting Services Strategy*. This is in accordance to Section 26 (1)(a) of the Broadcasting Act which requires the BAI to prepare a strategy for the provision of broadcasting services in the State, outlining the Authority’s approach to, as well as a framework for, the licensing of broadcasting services in the State, additional to those provided by RTÉ, TG4 and any future television services that may be provided by the Houses of the Oireachtas and the Irish Film Channel.

Accordingly, a phased licensing approach is adopted where in terms of section 8(1)(b) a 100-day pilot (temporary) community sound broadcasting service is granted, and those groups that have successfully operated these services become eligible to apply for a permanent licence. With the exception of temporary licenses, both are processes initiated by the regulator, in order to manage the number and type of services licensed. In terms of community radio, the BAI issues licensing plans which detail any planned licensing processes for all categories of licenses, including those of community radio services, and also publishes an indicative community broadcasting plan on its website.

Regulatory Approach

The Broadcasting Act outlines regulatory requirements for broadcasting services, these are translated into licensee conditions for broadcasting services. The conditions deal with a number of issues including Ownership and Control of Broadcasting Services, programming and commercial content, and compliance with broadcasting codes and rules. Additionally, the BAI is also responsible for reporting to the Minister of Communications, Energy and Natural Resources on the level of Irish produced programming on Irish licensed commercial television services and the extent to which opt-out advertising on services licensed outside the State complies with the BAI's advertising codes and in particular, content likely to be of direct or indirect interest to children.

6.3 Community Television Model

6.3.1 The South African Context

Licensing of community broadcasting services in South Africa preceded completion of its regulatory framework. Initially only TBN ¹¹⁸ was licensed by the former Ciskei government prior to the establishment of the Independent Broadcasting Authority (the IBA). Whereupon it was granted permission to continue broadcasting on the

¹¹⁸ With the inception of the IBA in 1994 Trinity Broadcasting Network (TBN) was the only licensed community television service. It began broadcasting pre-1994 in the former homeland of Ciskei and "grand-fathered" by the IBA in 1994

terms of its license.¹¹⁹ The rest of community broadcasting licensees operated using event licenses¹²⁰. These licensees, including Soweto TV, Tshwane TV and Cape TV were only formally licensed in 2007.

Broadly, the framework for community television is similar to that of community radio and both are regulated along similar lines. However, given the higher financial and operational requirements, the community television sector may warrant a different approach.

In South Africa community television is conceived along similar lines as in radio, with the following salient features.

- be fully controlled by a non-profit entity and carried on for non-profit purposes;
- serve a particular community;
- encourage members of the community served by it or persons associated with or promoting the interests of such community, to participate in the selection and provision of programmes to be broadcast in the course of such broadcasting service; and
- may be funded by donations, grants, sponsorships or advertising or membership fees, or by any combination of the aforementioned¹²¹

In terms of operating models there are two main categories, a fully community controlled non-profit organisation and a commercialised model operating mainly on the basis of a management agreement or partnership with commercial entities. According to the Sol Plaatjie Institute for Media Leadership the NGO model remains in a financially precarious situation as it relies mostly on outside funding and a lack of strategy with regards to funding especially from local government. The commercial model on the other hand tends to be financed and controlled by the commercial partner¹²².

119 ICASA, Community Television Broadcasting Services Position Paper. 30 November 2004.

120 ICASA, Community Television Broadcasting Services Position Paper. 30 November 2004.

121 The Electronic Communications Act no 36 of 2005, section 1

122 Sol Plaatjie Institute on behalf of the Department of Communications. Investigating the appropriate model for implementing community TV in South Africa, 2012

These relationships are managed through management agreements which include amongst others, agreement to manage operational costs and revenue, to employ studio capacity, equipment and expertise that will manage advertising. Recently the Authority has attempted to address concerns that management agreements were undermining the mandate of community television and ICASA has now stipulated that any management agreement entered into between a station and a management company must be approved by the Authority before it becomes operational¹²³.

Similar principles for community television are applied internationally, although in some countries stations operate on a commercial basis, since this is determined by the station's commercial imperatives, that is, depending to a greater or lesser extent upon revenue from commercial advertising and sponsorship, based on the income/ revenue streams at their disposal.

A report prepared by TimeScape Productions on behalf of CRTC, highlights the following as significant features of a community television station.

- a) *Local origination: production that is generated within a relatively restricted geographic area.*
- b) *Access: significant participation by non-professionals on a voluntary basis (in order to distinguish "community TV" from traditional local broadcasting).*
- c) *Regular distribution: to distinguish "community TV channels" from video co-operatives, which often enable production, but not distribution. In offering a regularly distributed programming service, community TV channels build an on-going relationship with the local viewing audience that feeds back to their program offerings. The method of distribution (cablecast, broadcast, webcast, screenings) varies by locale.* ¹²⁴

The operating and funding models for the benchmarked countries are summarised below, indicating their license categories, distribution platforms funding/ revenue models and implementation challenges.

123 ICASA, Notice of amendment to the Regulations on Processes and Procedures Regulations for Class Licences, Government Gazette 39874, Government Notice 157 of 2016.

124 Community Television policies and practices around the world, CRTC, 2009

Country	License Category/ Distribution platform	Funding/ revenue model	Implementation challenges
AUSTRALIA	Community/national satellite Free to Air analogue UHF/satellite/some internet	Membership fees Advertising Revenue Federal funding through the Broadcasting for Remote Aboriginal Scheme (BRACS) scheme for Aboriginal community television)	Reliable sources of revenue to be sustained beyond urban centres. Failure by regulatory to allocate digital spectrum for community television services.
CANADA	Community cable, low- power Cable/ Fee to Air analogue(UHF/VHF)	Cable subscriptions, Provincial government funding (Quebec)	Decline in provision of public access programming, as a result of cable companies consolidating their production facilities Regionalisation of cable companies at the expense of localised programming

Table 10 Community Television Operating Model

6.3.2 Australia

Community television model, revenue model and funding

Compared to radio, community television requires more money and infrastructure to produce. In Australia, although there is funding for community radio and for Aboriginal television, there is no concerted funding scheme for non- Aboriginal community television and stations mainly rely on sponsorship especially in the capital cities. As indicated above this is limited through restrictions on selling airtime to profit making entities. However, stations are also exploring creative means of diversifying their revenues, for example:

- Utilising lottery funding for infrastructure upgrades;
- Airing state government Public Service Announcements (PSA) – Perth Channel;
- Partnering with an academic institution for accommodation and financial support – Brisbane Channel; and

- Training and sharing facilities – Brisbane and Perth Channels.¹²⁵

Implementation challenges

Similar to South Africa financial sustainability is an issue for community television in Australia. The main hurdle stems from limited government funding for community television, and a lack of reliable sources of revenue to be sustained beyond urban centres. Community television licensees rely mainly on sponsorship and advertising. Another challenge facing this sector in Australia has to do with failure by the regulator to allocate digital spectrum for community television services. The CRTC report attributes this to a number of factors, including the following:

- The planning for digital conversion occurred before the community TV sector had official recognition and permanent licenses;
- There is resistance to this new sector being given bandwidth by traditional broadcasters, whom the community TV sector feels is “unused to dealing with competition”; and
- Government’s preference to use the new spectrum afforded by satellite and digital technologies to upgrade technology (e.g. the conversion to HD) rather than to diversify programming.¹²⁶

6.3.3 Canada

Community television model

The Canadian Community Television Policy is separated into segments that address two layers of community television broadcasting. There are community television stations operated by terrestrial Broadcasting Distribution Undertakings (BDUs). Terrestrial BDUs are direct to home satellite broadcasters that are given an option of operating a community television station. There are also independently operated community based television services. Both policy segments are regulated by the

¹²⁵ ibid

¹²⁶ CRTC, 2009, Community Television policies and practices around the world,

Broadcasting Regulatory Policy CRTC 2010-622, legislated by Broadcasting Act (S.C. 1991, c. 11) as amended in 2009¹²⁷.

Despite the non-profit status of community broadcasting, the Canadian Authority considers both for profit and not for profit applicants when granting licences for independent community television services. However, established licensees that intend on using community television licenses to extend their reach are not considered and preference is given to locally based new applicants.

Furthermore, in its assessment of applications for community television broadcasting, the Commission takes into consideration the number of community broadcasting services already licensed in the proposed service area, the availability of free to air channels and/or the available capacity of the affected BDUs and the impact on local radio and television licensees operating in small markets. The BDU operated community licences are owned by BDU licensees that are expected to involve the community served in content creation and programming. These are also considerations in South Africa as the Authority does not license a minimal number of community broadcasters in one geographical or community of interest area to avoid duplication of services and funding challenges¹²⁸.

Revenue models and funding

Community- and PEG-access is paid for in Canada by cable companies. There have been two rationales for this effective tax over the years:

- Cable companies use public rights-of-way to lay cable;
- Franchise fees pay for this use (more strongly a US argument, but also heard in Canada); and
- Cable companies and other BDUs make a profit by bringing non-Canadian signals into Canadian homes. They bear none of the risks of production, as do Canadian broadcasters. They should therefore help support Canadian

127 CRTC, 2010, Broadcasting Regulatory Policy CRTC 2010 -622 -1; *Community Television Policy*. Canada is in the process of reviewing the policy framework for local and community television programming.

128 CRTC, 2010, Broadcasting Regulatory Policy CRTC 2010 -622 -1; *Community Television Policy*

production to balance this effect¹²⁹.

In Canada, advertising was forbidden on community TV in the early years (although sponsorship messages were permitted) as the feeling was that it was in conflict with its non-profit, public-service nature. Since 1997 however, CRTC guidelines have been relaxed. Many cable operators today not only use community channels to promote their other products and services, some turn a profit from them.

129 CRTC, 2009, Community Television policies and practices around the world

SECTION D: CONCLUSION

7. CONCLUSION AND RECOMMENDATIONS

7.1 Introduction

This research report will serve as input into the Discussion Document for the Review of Community Broadcasting Services Regulatory Framework in South Africa. Based on desktop research, market analysis and international benchmarking the results indicate this sector's challenges emanate from a lack of corporate governance, management capacity and revenue diversification strategies. The research also points to a lack of concerted institutional support, capacity building and funding strategy for community broadcasting in South Africa. These are exacerbated by a lack of regulatory guidelines relating to corporate governance, financial accountability and community participation. This section consolidates these findings and highlights areas for further consideration in the Discussion Document.

7.2 Redefining the scope and mandate of community broadcasting

The principles of community broadcasting as enunciated in legislation apply to both community television and radio. The basic principles of community ownership/ participation, non-profit and local origination also remain relevant internationally. However, stakeholders raised a concern with the relevance of the current scope, coverage/ footprint and non-profit status of community broadcasting services. They raised challenges with regulating community of interests versus geographically bases station, versus campus bases stations, versus community television using the same principles and requirements. T

Other jurisdictions including Australia, Canada and Ireland recognise the nuances of these categories and apply their requirements accordingly. For example:

- 1) *Australia* - ACMA makes provision for distinct licensing conditions for community television and community radio, and analogue and digital radio

services. Legislation also allows for licensees to change their community of interest.

- 2) *Canada* – CRTC allows for profit organizations to apply for a category of community television license (independent community television services)
- 3) *Ireland* – BAI has an additional licensing category for temporary and institutional sound licenses- campus stations can fall into this category.

Based on these inputs the discussion document should probe whether the current legislative definitions of community broadcasting, still holds. Views/ proposals should be solicited on the following:

- Whether the profitability and accountability arguments they raised in support of an extended foot print are valid, especially in light of additional transmission costs associated with expanding the footprint;
- Alternatives that the Authority should consider in approaching proposals to expand the community broadcasting services footprint;
Factors that the Authority should consider in regulating community of interest versus geographically based stations this is important since some stakeholders maintain that the two categories are operationally different and that they should draw from different set of rules; and
- These stakeholders also raised concerns with the cost of implementing rules that are geared towards geographic community (local content), and the ambiguity of the requirements to community interest of broadcasters.

7.3 The South Africa Community Television model

The South African community television model evolved pragmatically in a way that sometimes flouts the principles of community broadcastings, stations entered into management and funding agreements with commercial entities and are available nationally on the DTH satellite subscription broadcasting service – Dstv. Similar to international models, they fall into two broad categories, non- governmental organisation model and a commercialised model operating mainly on the basis of a management agreement or partnership with commercial entities. Stakeholders

highlighted the higher costs and more complex management requirements associated with providing community television services.

Again, there are indications that some jurisdictions allow for commercial entities to invest in community television. For example, the CRTC allows for profit organizations to apply for a category of community television license (independent community television services).

The discussion document should solicit views on the approach, operational model and funding requirements that the Authority should consider in regulating community radio and community television, respectively. Additionally, inputs should be solicited on the nature of policy recommendations that the Authority should make to the Minister for a specific funding approach for community broadcasting.¹³⁰

7.4 Regulatory and licensing challenges

Licensing and internal processes

The class licensing and associated processes have resulted in a number of administrative and regulatory challenges. This is a result of the processes and timeframes outlined in sections 17 and 18 of the EC ACT. These do not afford the Authority latitude to initiate, evaluate and refuse licenses, and is contrary to the approach by other jurisdictions, which license community based on an overarching licensing strategy (taking into account demand and supply of broadcasting services), employ competitive licensing mechanisms and considers overall performance of the licensees upon renewal. The current South African licensing regime does not provide for these processes. It may be useful to consider the following strategies applied internationally.

- 1) *Australia* – ACMA 's approach is based on a competitive licensing process, initiated and controlled by the regulator, and as such:

¹³⁰The Authority may in accordance to section 3(5) (9) make recommendations to the Minister on policy matters in accordance to the objects of the EC ACT.

- Licensing and renewal criteria, approach and timing determined by ACMA; and
 - Renewal based on compliance and performance.
- 2) *Canada* – CRTC’s licensing process is competitive and is based on a phased/ pilot licensing to determine the feasibility of licensees.
- 3) *Ireland* - BAI adopts a similar approach, based on an overall licensing strategy, which takes into account the impact that new licensees would have on the overall broadcasting landscape, accordingly:
- Licensing is at the discretion of the BAI;
 - BAI issues the licensing strategy and plans to determine the number and categories of licenses (across all licensing categories) – therefore considers feasibility and diversity of the broadcasting system in its totality;
 - Adopts a competitive licensing process; and
 - Implements phased/ pilot licensing to determine the feasibility of licensees.

7.5 Monitoring and Enforcement

Monitoring and enforcement are a key component of ensuring the sustainability of community broadcasters. Beyond just setting the rules and monitoring compliance these processes provide the Authority with feedback on the efficiency of its Regulations. Desktop research and stakeholder interviews have highlighted the fact that the community broadcasting sector has experienced compliance challenges, which calls for an evaluation of the tools and processes including Regulations, license conditions and requirements that the Authority employs.

The most prevalent have to do with community ownership, community participation and corporate governance. Stakeholders attribute this to a lack of clarity on what constitutes community participation and ownership. But there are also concerns around how stations should approach / structure legal and controlling entities as well as giving effect to their non- profit status. These are discussed in detail in the ensuing sections.

7.6 Corporate governance, management and operational challenges

Corporate governance and management

Both the desktop research and stakeholder interviews raised corporate governance and management as a challenge for community stations, this takes various forms including a lack of community of participation, political interference, contestation for resources, role confusion between board members and management and a lack of strategic planning and foresight. This area falls into stations business practices and is thus not regulated. Save for intervention relating to management agreements, the Authority provides limited guidance to community licensee on corporate governance and management issues. Given the effort and resources expended in addressing related compliance challenges the Authority should consider guidelines in this regard.

The approach adopted in Australia highlights a number of strategies to provide such guidance. ACMA provides detailed licensing conditions outlining acceptable practices by licensees. Additionally, there are Community Radio Broadcasting and Community Television Broadcasting Codes of Practice which cover corporate governance related practices and guidelines.

Community Participation

The Authority views community participation and ownership as a key component of corporate governance within the community broadcasting sector, and uses various methods to encourage participation including, annual general meetings, board elections, selection and provision of programming, and volunteering. However, power dynamics in the stations such as contestation for resources, political interference and station hijacking indicates that these measures may not be as effective, and therefore the Authority's mechanisms should improve.

Other jurisdictions have attempted to facilitate community participation and have adopted the following strategies:

- 1) Australia – ACMA has developed community Broadcasting Participation Guidelines;

- 2) *Canada* -CRTC requires community broadcasters, as with other tiers, to comply with ownership and control requiring that stations should be controlled by Canadians, at least 80% of the directors (including those involved in the daily operations of the station) should be Canadian. To ensure that this is adhered to, they are required to submit annual updates on the composition of the board of directors either "at the time of submission of annual returns; following annual board of directors' elections; or at any other time."¹³¹ Additionally stations are required to consult community members to understand their media needs and interest in order to provide relevant local programming; and
- 3) *Ireland* – BAI provides a detailed definition of community participation and ownership.

The discussion document should canvas views on the key elements of good corporate governance and management that should be considered in implementing sustainability strategies for the community broadcasting sector. It should also solicit proposals on the mechanism and tools that the Authority should apply to encourage good governance and management practices in community stations, including regulatory mechanisms that the Authority can adopt to encourage the sector to set minimum employment, staff retention and training standards in the community broadcasting sector. Proposals should be sought on how development and training initiatives can be formalised and coordinated between the relevant government departments and agencies.

Financial Management and Revenue Diversification

A related challenge is the lack of financial systems and revenue reification strategies. The sector relies too much on advertising revenue and competes with established commercial and public broadcasting services for advertising revenue. However, stations are struggling to access such revenue based on negative perception that community broadcasters lack professionalism and accountability.

¹³¹ CRTC, 2010, Broadcasting Regulatory Policy CRTC 2010 -622 -1; *Community Television Policy*

The discussion document should solicit inputs into the role that the Authority can encourage revenue diversification amongst stations. Proposals should be sought on the best financial practices that a community broadcaster should follow, as well as mechanisms that the Authority should apply to monitor and enforce proper financial management practices.

Management Agreements

Community television stations have entered into management agreements with commercial entities in order to access the funding and resources required to run stations. The challenge with these arrangements is that they threaten key community broadcasting principles including community participation and ownership, localized content and the non-profit (non-commercialized) nature of community broadcasting services. They further threaten station editorial independence.

Internationally the community television model is mainly based on public access and as such, as is the example in Canada, commercial entities can run stations provided that they meet public access requirements. Stakeholders have also indicated that there might be value in entering into management agreements with commercial entities. The challenge is in ensuring that commercial imperatives do not adversely affect community participation, mandate and editorial independence of community broadcasters. Based on these concerns the Authority passed Regulations which prohibited such practices.

The discussion document should probe whether the Authority should retain this position, and in the event of this, solicit proposals on how the Authority can mitigate on investor's commercial imperatives not diluting the mandate and objectives of community broadcasting, and to ensure that the stations retain editorial control.

Technical Competency

Technical capability and the cost of signal distribution were highlighted as having a negative impact on stations' operations. The discussion document should solicit proposals on the mechanisms that the Authority should employ to provide guidance or support to community broadcasters in relation to the technical requirements and challenges associated with signal distribution.

7.7 Funding, Support and Capacity Building

Given station capacity and other challenges and in spite of having multiple sources of funding, stations must be funded or supported by government in order for them to be sustainable in the long run. However, there is no concerted funding and capacity building strategy for this sector. This was cited by many of the stakeholders as the reason why the sector support programmes have been met with limited success.

Adequate and strong institutional and capacity support are the converse side of the funding coin, the two are mutually supportive. This point was also noted by many of the stakeholders interviewed. A range of organizations and agencies play an important role in promoting and facilitating community broadcasting in South Africa. These include sector organizations, training institutions and production organizations. An analysis of other jurisdictions' approach to funding and capacity building indicates similarities to the programmes currently being implemented in South Africa, that is, covering elements of infrastructure and technical support, programming production, and capacity building and training.

However, in the context of this review, it is important to consider the adequacy of programmes being implemented in South Africa, addressing associated challenges and aligning these programmes to an overarching funding and capacity building strategy for this sector.

Given this omission from the policy and the community broadcasting mandate, the discussion document should solicit proposals on how government and statutory bodies such as the MDDA and the Authority can collaborate to develop a funding strategy for the community broadcasting sector.

It is further noted that the DoC is currently reviewing its community support programme, and that this provides an opportunity to provide input into the DoC's review, using inputs from this process.

7.8 Non- profit status

Community broadcasting being for non-profit making purposes is a fundamental principle underling the mandate of community broadcasting. While stations are required to reinvests their proceeds into their communities, many are experiencing financial problems. These are attributed to a number of factors including their inability to diversify their revenue. Stakeholders highlighted the need for the Authority to provide guidance on stations non-profit status as well as the manner in which profits can be reinvested into communities.

The discussion document should solicit views on whether community stations should be commercialised, the options / proposals should take into account the current corporate governance, management and financial management problems that are encountered by stations.

7.9 Programming and content development/ acquisition

In the context of public interest, community programming, as with public broadcasting, is seen as contributing towards educational and development programming, cultural and language plurality. Therefore, public interest programming requirements such as local content, news etc. are weighted more for community broadcasting services.

It should be distinct from commercial and public broadcasting and intended to be an alternative source of information, education and entertainment for local communities. As such stations should have strategies and mechanisms of sourcing such content, ensuring that it is distinct and serves their communities in terms of good quality locally sourced programming using local language.

Three areas were highlighted as key to securing community programming, these are local origination, availability of programming resources and content acquisition strategies for community television. Proposals should be sought on how these can be secured given this sector's resource and capacity limitations.

7.10 Licensing community television on the DTT platform

In the short-term DTT Migration may not have as far reaching an impact on community broadcasters as with the public and commercial tiers, but not all stakeholders are aware of the impact it may have. Those that are aware indicated that the sector is not prepared for the revenue and cost implications, stemming from audience and advertising revenue fragmentation, as well as increased signal distribution costs. They indicated that Stations lacked both the technical skills and management skills to address the DTT migration requirements.

The discussion document should solicit views on the role that ICASA should play in capacitating the community broadcasting sector to deal with the implications of the transition to DTT.

Some stakeholders, albeit the more resourced stations, felt that other technologies such as DAB+ should be afforded the same focus given to DTT. Stakeholders indicated that DAB+ is likely to have the same wide ranging impact as DTT, that is, introducing a new licensing approach, shifting audience listenership patterns and revenue models. There is currently no regulatory and licensing framework for DAB in South Africa and most of the initiatives are conducted on test licenses, aimed at testing technical feasibility and technology.

Given the interest expressed by some sector players in this technology, proposals should be sought on how the Authority should facilitate the growth of DAB in the absence of a framework.

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Appendix A: Stakeholders consulted

The following stations were interviewed.

#	Province	Community of Interest /Geographic	Rural Urban
	Gauteng		
1	Hot FM	Interest	Urban
2	Tshwane TV	Geographic	Urban
3	Soweto TV	Geographic	Urban
4	Radio Pretoria	Interest	Urban
5	Kofifi FM	Geographic	Urban
6	Josi FM	Geographic	Urban
7	Rainbow FM	Interest	Urban
	Limpopo		
8	Makhado CR	Geographic	Rural
9	Energy FM	Geographic	Urban
10	Radio Naboomspruit	Geographic	Urban
	Northern Cape		
11	Riverside	Geographic	Urban
12	Radio NFM	Geographic	Rural
13	Temaneng	Geographic	Urban
	Mpumalanga		
14	Middelburg	Geographic	Urban
15	Platorand	Interest	Urban
	Western Cape		
16	Cape Town TV	Geographic	Urban
17	Radio 786	Interest	Urban
18	Franschoek	Geographic	Urban
	Free-state		
19	Karabo CR	Geographic	Urban
20	Mosupatsela	Interest	Rural
21	Motheo	Geographic	Rural
	Eastern Cape		
22	Kingfisher	Interest	Urban
23	Kouga FM	Interest	Rural
24	TBN	Interest	Urban
25	Nkonjane	Geographic	Rural
26	Mdantsane	Geographic	Rural

#	Province	Community of Interest /Geographic	Rural Urban
27	Unitra	Geographic	Rural
28	Radio Forthare	Geographic	Rural
	North West		
29	Letlhabile	Geographic	Rural
30	Mafikeng CR	Geographic	Rural
31	Lichtenburg	Interest	Rural
	Kwazulu Natal		
32	Izwi Lomzansi	Geographic	Urban
33	1KZN	Geographic	Rural
34	North Coast	Geographic	Urban
35	Maputaland	Geographic	Rural

Table 11 Station interviewed

Their breakdown per province, license category, platform and geographic location are detailed below.

Community Category	GP	L	NC	MP	WC	FS	EC	NW	KZN	Total Stations
Community of Interest	3	0	0	1	1	1	3	1	0	10
Geographic Community	4	3	3	1	2	2	4	2	4	25
Total Per Province	7	3	3	2	3	3	7	3	4	35

Table 12 Station interviewed per community category

Platform	GP	L	NC	MP	WC	FS	EC	NW	KZN	Total Stations
TV	2	0	0	0	1	0	1	0	1	5
Radio	5	2	3	2	2	2	7	3	4	30
Total per province	7	2	3	2	3	2	8	3	4	35

Table 13 Stations interviewed per platform

Geographic Location	GP	L	NC	MP	WC	FS	EC	NW	KZN	Total Stations
Rural	0	1	1	1	0	2	2	3	2	12
Urban	7	2	2	1	3	1	5	0	2	23
Total per province	7	3	3	2	3	3	7	3	4	35

Table 14 Rural versus urban stations interviewed

The following sector stakeholders were also interviewed

STAKEHOLDER	SECTOR
Association of Christian Broadcasters (ACB)	Industry Body
Department of Communications	Government Department (Broadcasting Policy)
Licensing Department and Monitoring Department	Regulator
Media Institute of Southern Africa (MISA)	Advocacy Organisation
Sentech	Signal Distribution
The Media Connection	Specialist Advertising Agency
The National Association of Broadcasters (NABSA)	Industry Body
The National Community Radio Forum (NCRF)- Gauteng, Free-State, Kwazulu Natal and Mpumalanga hubs	Advocacy/ Industry Body
The National Film and Video Foundation (NFVF)	Government Agency (Content Development)
The South African Broadcasting Corporation (SABC)	Public Broadcaster
The Universal Service and Access Agency of South Africa (USAASA)	Government Agency (Universal Access)
University of the Witwatersrand	Academic Institutions
Urban Brew	Content Development

Table 15 Stakeholders