



Joining hands in African entertainment

16 May 2018

Ms. Leah Maina
General Manager
Licensing Department
Independent Communications Authority of South Africa
Block A Pinmill Farm
164 Katherine Street
Sandton

RE: RESPONSE TO COMMENTS FROM ICASA FTA LICENSE APPLICANT, KWESE TV

Following the Application made by Tshwaranang Media (Pty) Ltd (hereinafter referred to as TM) for a commercial Free to Air Television license, ICASA has acknowledged receipt of our application and issued a Notice of Received FTA Applications on 13 March 2018, inviting the public to comment on Applications received by 16 April 2018. The Applicant, Kwese TV, had specific questions relating to TM Application. Please find below questions, and corresponding responses to the questions raised by the FTA License Applicant.

2.1. Africa Equity Empowerment Investments seems to be in a position to control the strategic direction of the Applicant although not a shareholder [Kwese TV]

AEEI is a 49% shareholder in Tshwaranang Media (Pty) Ltd. Whilst it is the largest shareholder, it is governed by a Board of Directors, none of whom are from AEEI. Unless the Board is made up of mainly AEEI representatives, they are not in a position to control the strategic direction. AEEI is committed to providing a platform for development in the media sector and will therefore utilise its shareholding in TM for the advancement of the goals as set forth by ICASA [Tshwaranang Media].

2.2. Of the 21 shareholders of the Applicant only 9 have initialled and signed the amended Shareholder thus rendering the Agreement defective [Kwese TV]

Tshwaranang Media has 20 shareholders, amended as per the Change of Information Application submitted and made available on ICASA's website. The signatures and/or proxies are provided and explained in the Change of Information Application [Tshwaranang Media].

2.3. Applicant has failed to submit a B-BBEE Verification Report as required by the Invitation to Apply (ITA). This compromises the ability of the Authority to verify whether historically disadvantaged individuals have been allocated a stake in the Applicant per the legislative requirements [Kwese TV]



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Due to the fact that Tshwaranang Media (Pty) Ltd is a new entity with no turnover as it has not begun trading, a verification certificate is not attainable. Nevertheless, we attached an affidavit according to DTI B-BBEE codes which is the only form verification we can obtain at this stage.

Our current B-BBEE status may also be verified through our shareholders, such as AEEI, which is a 49% shareholder in TM, which as a JSE-listed company is available publicly on their website. We are in the process of obtaining our B-BBEE verification and once received, it will be available on our website, and a copy will be provided to ICASA. It is also noteworthy that AEEI was also the 2017 Winner of Empowerdex 100 Most Empowered Companies in 2016 [Tshwaranang Media].

2.4. Applicant alleges that its equity ownership for youth and people with disabilities amount to 4%. This information could not be verified due to the lack of the B-BBEE Verification Report [Kwese TV]

Please refer to response above [Tshwaranang Media].

2.5. AEEI is the major shareholder and is already making provision for the sale of shares, thus demonstrating a lack of commitment in further participation in the Applicant [Kwese TV].

The primary purpose of TM forming a consortium was for a group of like-minded people representing broad sections of society, including media professionals, to bid for the ICASA FTA license. The commitment AEEI has given to Tshwaranang is indicated in the letter of commitment and is conditional upon TM being awarded the ICASA FTA license. This explains why such a provision would be made [Tshwaranang Media].

3.1. All the directors appear to be from Sagarmatha. According to publicly available information, this organisation is under financial distress [Kwese TV].

This statement is factually incorrect. Only one non-executive director out of the five directors on the Board of Directors of Tshwaranang Media is also a director of Sagarmatha Technologies. Sagarmatha Technologies financial position is unrelated to that of Tshwaranang Media [Tshwaranang Media].

4.1. The comment on page 135, volume 1 about the revenue through the sale of exclusive content does not seem to be applicable to this application and this needs further clarification and context [Kwese TV]



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The comment on page 135 is part of our integrated business model. Nowhere is it indicated in the bid document that revenue for FTA Applicant must be from advertising only, or that owned and original South African content produced cannot be licensed or distributed beyond South Africa. We plan to produce original content, and distribute it. It is important for Tshwaranang to give local content partner producers, their narrative and advertisers/sponsors an opportunity to reach other African audiences [Tshwaranang Media].

4.2. Extent of the role to be played by the international consultants referred to in the application documents of the Applicant is not clear [Kwese TV].

International consultants and partners identified in the Application support Tshwaranang Media's FTA Application, and South Africa's migration from analogue to digital led by the regulator ICASA. Thus, their intended role is an advisory one and in order to share international experiences and best practices in ensuring the success of the TM venture from a commercial, technical and content perspective. Transformation and a local diverse representation of the South African broadcast media landscape, consistent with ICASA's goal, is the primary purpose of Tshwaranang Media forming a consortium. Hence, there is no intention to surrender any ownership to foreign partners. It is for this reason the consortium is only 3,3% foreign owned.

Through an international partner, the Doley Foundation, TM intends to create an exchange programme for South African broadcasters to go over to the United States and learn from the almost decade of FTA digital television there. Similarly, the partnership with RTL will enable TM to learn from the European experiences in Luxembourg and Netherlands (amongst the first in the world to migrate to digital), Germany, France, Belgium, Hungary, Croatia and Spain. Finally, the partnership with TV BRICS enables Tshwaranang to share television content from Brazil, Russia, India & China and promote intercultural exchange to South African audiences in the context of South Africa's foreign policy framework of south-south cooperation [Tshwaranang Media].

5.1. Applicant submitted an organogram with 11 members of senior management but has only submitted 6 letters of acceptance of the allocated positions [Kwese TV]

Out of 10 members of Senior Management identified (the 11th position was vacant), we confirm that we do have 6 letters of acceptance. We are in possession of email correspondence indicating the acceptance of the other allocated positions, which can be made available to ICASA [Tshwaranang Media].



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5.2. The Board of Directors and Senior Management of the Applicant do not have broadcasting experience but would rely solely on international consultants who lack local industry experience [Kwese TV]

The Companies Act states the duties of Directors are as follows:

76(3) of the Act states that a director of a company, when acting in that capacity, must exercise the powers and perform the functions of a director: in good faith and for a proper purpose; in the best interests of the company; and with the degree of care, skill and diligence that may reasonably be expected of a person carrying out the same functions in relation to the company as carried out by that director, and having the general knowledge, skill and experience of that director.

Tshwaranang Media's Board of Directors have the skills to run and govern the company with care, skill and diligence based on the diverse set of specific and general skills required to effectively manage a company.

Whilst the following is highlighted in the CV's in the FTA Application, for the purpose of clarity, the skill set of the Directors of the Board of Tshwaranang Media can be summarised as follows:

Amit Makan has almost two decades of professional and business experience in South Africa and Africa, including managing long form and short form content production and distribution businesses, and as a committed impact filmmaker, and will add value to the executive and strategic decision making of the Board.

Piet Rampedi has almost two decades of professional experience having worked in news, sport and broadcast media in South Africa and will provide valuable input to the Board and the direction of TM.

Nnoko Sekete has experience in managing the operations of a large national company in South Africa, in addition to his qualifications from Cambridge and University of Cape Town in Development Studies and Economics respectively. This will assist the Board in making operational decisions and ensuring organisational efficiency.

Sarah Buluma and Valentine Dzvova (Non Executive Director) have more than a decade of experience as qualified Chartered Accountants. Their business acumen and experience in auditing various companies across industries (including media businesses) has empowered them to help businesses financially grow and prosper.



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The CV's of other members of Senior Management team speak for themselves and clearly illustrate skills in television production and broadcasting. Kindly refer to CVs in the Application.

Tshwaranang Media as a South African company is passionate and committed to an African narrative, and hence, has no intention on relying entirely on international consultants, but rather, to be supported by them based on their international broadcast and production experiences as cited in detail in 4.2 above. This is evident by the local content and production partnerships and technical support that TM has garnered, and the fact that TM is only 3,3% foreign owned.

5.3.1 Projecting revenues of R1bn in year 1 is indicative of lack of experience in relevant market trends. For example, eTV took approximately 6-7 years to break even, and was only competing against the SABC for free to air viewership. Furthermore, the competition for advertising revenue from merchants includes the pay TV sector, the internet platform, print media and community broadcasters [Kwese TV]

Revenues (not profit) are based on a pricing strategy and the advertising capacity of the two channels we would focus on in the first few years of operation. For the record, TM projects a loss in year one.

Based on the principle of prudence, we believe that revenues for year 1 are not unrealistic. Besides the competitive pricing strategy, it is based on a reasonable assumption that only 10% of the total advertising spots available would be sold. This despite the knowledge that terrestrial television advertising continues to dominate. Revenue projected from distribution, such as OTT, is also conservative and at a maximum of 15% of total projected revenue. We have indicated in the bid how we calculated the revenue and what the assumptions are based on.

The projected audience growth is also based on the market research performed using robust research methodology, and our unique content plans for the two initial channels. Since our programming speaks to the market demand that is not being met by competitors, we believe we would be able to attract an audience that would be beneficial to the advertisers. Aside from a unique programming approach, our confidence in attracting audience is further supported by an aggressive marketing strategy as highlighted in our bid.

TM is well aware of how long it took eTV to break even in the context of one public broadcast competitor with 3 channels. However, we believe that the market conditions



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and television audience at the time of eTV's launch in 1998 were very different to what they are now. Television audiences (20-30% of the population) and people with access to TV in South Africa has grown substantially since then with around 90% of South Africans saying they watch TV daily giving advertisers more reach and therefore better value more their money. Furthermore, it is well documented in the PwC Entertainment and Media Outlook 2016-2020 that whilst terrestrial television advertising continues to dominate, multichannel television advertising spend is growing, which is why we cannot ignore online distribution platforms that we are also competing with.

Finally, if we consider the supply side, we know that the marginal cost of content production has declined in the last decade with the further democratisation of the media, and more content producers and suppliers of production equipment resulting in lower production costs. This is further aided by a very conducive production environment in South Africa with tax incentives and funding provided by SARS, NFVF and IDC.

5.3.2. Under estimation of the startup CAPEX , and OPEX costs [Kwese TV]

CAPEX this is based on quotes received from local suppliers including Inala Broadcast (who have technically supported SABC, Multichoice Africa, eTV, eTV Nigeria, Star TV Tanzania, Botswana TV, Namibian Broadcasting Corporation, Lesotho Broadcast Corporation, CNBC Africa, National Geographic amongst others), and on what we are planning to do.

OPEX costs are based on market related salaries and, as indicated on the financials, our content cost is based on our content mix and programming where quotes were sourced from third parties. Please refer to Appendix 10.5 [Tshwaranang Media].

5.4. The comment at page 134, volume 1 about the revenue through OTT services does not seem to be applicable to this application. This requires clarification and context [Kwese TV].

As indicated in 4.1 above, potential revenue and distribution of content through services such as an online platform relates to our business model and is extremely relevant to this application, indicating our plans and vision to distribute South African owned content beyond our borders to African audiences, thereby providing a platform for local content producers and filmmakers. Thus, we foresee revenue streams from content distribution beyond FTA television advertising, pointing to the long term sustainability of this venture [Tshwaranang Media].



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6.1. *The Applicant has failed to state whether the 5 proposed channels will be on Standard Definition or High Definition platform [Kwese TV].*

The above was due to a technical error during the final printing and binding process. However, the applicant believes that this technical omission does not have a material impact on the bid.

Please find enclosed a copy of the page that gives insight to the channel format the applicant seeks to operate under, indicating that the Applicant requests ICASA to authorise 2 HD channels in the start-up phase, with 3 further HD channels to follow.

Give details of all channels that would need to be authorized by the authority from start-up (whether such channels are permanent or temporary, titles of channels, countries of origin and genre, and whether such channels comply with the code of conduct for broadcasting services).

The Applicant requests that the Authority authorize two of the following permanent high - definition channels from start – up:

1. Tshwaranang News

Channel Title: **T – News**
Status: Permanent
Country of Origin: South Africa
Genre: News/Current Affairs
Compliance: Yes

2. Tshwaranang Entertainment

Channel Title: **T – Entertainment**
Status: Permanent
Country of Origin: South Africa
Genre: Variety Entertainment
Compliance: Yes

The Applicant requests that the Authority gives consideration to the inclusion of the following permanent high - definition channels at a future date upon a request of activation from Applicant:

3. Tshwaranang Sports

Channel Title: **T – Sports**
Status: Permanent
Country of Origin: South Africa
Genre: Sports
Compliance: Yes

4. Tswaranang Knowledge

Channel Title: **T – Knowledge**
Status: Permanent
Country of Origin: South Africa
Genre: Variety Knowledge
Compliance: Yes

5. Tshwaranang Development

Channel Title: **T – Development**
Status: Permanent
Country of Origin: South Africa
Genre: Knowledge
Compliance: Yes

7.1. *The Applicant is requested to give clarity on governance structures and how key decisions will be taken. Twenty-one shareholders present a risk without further clarity on how key decisions will be taken. The Authority should be weary with the prospect of such a*



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large, varied group finding alignment and momentum to successfully launch and operate these channels and the business [Kwese TV].

Kindly refer to the Memorandum of Incorporation in TM's bid application, Article 5 Section 2, which states that the board is charged with running the company on behalf of the shareholders.

Thus, TM does not believe that such a diversity of shareholders will impinge on the decision making of the consortium. In fact, the diversity ensures that Board members make the most inclusive and democratic decisions taking into consideration the interests of a broad section of society. Furthermore, the diversity of shareholding should also be seen as a way in which we are empowering previously disadvantaged individuals, including those who have worked tirelessly to contribute to this application, with tangible ownership in the company.

For any key strategic and operational decisions made by a company, a resolution is needed from the board of directors and not the shareholders, as required by the Companies Act of South Africa and indicated on the MOI [Tshwaranang Media].

In conclusion, we would like to thank ICASA and fellow Applicants for their specific questions and for the opportunity to clarify issues and respond with TM's representation.

We look forward to hearing the next step in this FTA Television License Application process.

Yours Sincerely,

Amit Makan
CEO: Tshwaranang Media

SWORN AFFIDAVIT – B-BBEE EXEMPTED MICRO ENTERPRISE

I, the undersigned,

Full name & Surname	AMIT JAYANTILAL MAKAN
Identity number	8104045177088

Hereby declare under oath as follows:

- The contents of this statement are to the best of my knowledge a true reflection of the facts.
- I am a ~~member~~ director / ~~owner~~ of the following enterprise and am duly authorised to act on its behalf:

Enterprise Name	Tshwaranang Media (Pty) Ltd
Trading Name	Tshwaranang Media (Pty) Ltd
Registration Number	2017/298383P 07
Enterprise Address	

- I hereby declare under oath that:
 - The enterprise is 97 % black owned;
 - The enterprise is _____ % black woman owned;
 - Based on the management accounts and other information available on the N/A financial year, the income did not exceed R10,000,000.00 (ten million rands);
 - Please confirm on the table below the B-BBEE level contributor, by **ticking the applicable box**.

100% black owned	Level One (135% B-BBEE procurement recognition)	
More than 51% black owned	Level Two (125% B-BBEE procurement recognition)	✓
Less than 51% black owned	Level Four (100% B-BBEE procurement recognition)	

- The entity is an empowering supplier in terms of the dti Codes of Good Practice.
- I know and understand the contents of this affidavit and I have no objection to take the prescribed oath and consider the oath binding on my conscience and on the owners of the enterprise which I represent in this matter.
- The sworn affidavit will be valid for a period of 12 months from the date signed by commissioner.

Deponent Signature: _____

Date: 15/05/2018



 Commissioner of Oaths
 Signature & stamp

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