



15 December 2020

**Attention:** Ms Violet Molete,  
Independent Communications Authority of South Africa  
350 Witch-Hazel Avenue  
Eco-Park Estate  
Centurion  
0144

**By Email:** [vmolete@icasa.org.za](mailto:vmolete@icasa.org.za)

Dear Ms Molete

**DRAFT SPORTS BROADCASTING SERVICES AMENDMENT REGULATIONS, 2020 ("THE DRAFT REGULATIONS")**

1. SARU appreciates having been afforded the opportunity to comment on the Draft Regulations.
2. When considering submissions from other parties and potential further amendments to the Draft Regulations, it will be important for ICASA to not lose sight of the fact that the amendments were responsive to the fact that most of the stakeholders were deeply uncomfortable with the 2018 Draft Regulations. We note that all the sports federations and governing bodies (local and international) who submitted written representations were of the view that the 2018 Draft Regulations, if finalised, would (amongst other things):
  - 2.1 cause irreparable harm to their fund-raising abilities as most sports federations rely heavily on the licensing of sports broadcasting rights on an exclusive basis for their viability;
  - 2.2 lead to job-losses and severely compromise various grass-roots development programmes;
  - 2.3 lead to the continued departure of local talent for more competitive overseas markets such as England and Japan;
  - 2.4 compromise the global competitiveness of national squads such as the Springboks;
  - 2.5 diminish the attractiveness of South Africa as a choice destination for major international sporting events; and
  - 2.6 infringe the right to property enjoyed by Sports Federations which is enshrined in the Constitution of the Republic of South Africa.
3. We also note that all local television broadcasters submitted that acquiring sports broadcasting rights on an exclusive basis is advantageous for free-to-air and subscription broadcasters alike. Therefore, to the extent that the 2018 Draft Regulations would have resulted in the diminished ability to licence sports broadcasting rights on an exclusive basis, this would have been damaging to the television broadcasting industry.





4. Given the gravity of the concerns articulated by stakeholders, SARU is very encouraged by the fact that the amendments to the Draft Regulations reflect the fact ICASA has been largely responsive to the concerns raised by stakeholders. We are particularly encouraged by ICASA's efforts to try and strike a balance between the interests of television viewers, sports fans, sports federations, broadcasters and ICASA's mandate in terms section 60(1) of the ECA
5. On our reading, the Draft Regulations will, **similar to the 2010 Regulations**, helpfully achieve the following:
  - 5.1 position ICASA to fulfil the objects set out in section 2 of the ECA including the following:
    - 5.1.1 the regulation of electronic communications in the Republic in the public interest;
    - 5.1.2 encouraging investment and innovation in the communications sector; and
    - 5.1.3 promoting stability in the ICT sector.
  - 5.2 protect the value of the intellectual property rights of sports federations; and
  - 5.3 preserve the ability of sports federations to exercise their discretion (as this relates to the licencing of sports broadcasting rights) in the best interests of the sporting codes under their care.
6. We invite ICASA to contact us should there be comments or queries relating to any aspect of the above. Should ICASA conduct public hearings regarding the Draft Regulations, we wish to note that SARU would appreciate the opportunity to participate.

Yours faithfully

**Jurie Roux**  
Chief Executive Officer