



## Policy and Regulatory Affairs

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**Att:** Mr Davis Kgosimolao Moshweunyane  
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Dear Mr Moshweunyane,

### **SABC SUBMISSION ON THE REVIEW OF THE ICASA ICT COVID-19 NATIONAL DISASTER REGULATIONS**

The SABC hereby submits the written representation with respect to the ICASA ICT Covid-19 National Disaster Regulations.

We trust that you will find this submission in order.

Yours sincerely,

**PHILLY MOILWA**  
**HEAD OF POLICY AND REGULATORY AFFAIRS**

## **SABC SUBMISSION ON THE ICASA ICT COVID-19 NATIONAL DISASTER REGULATIONS**

The SABC wishes to thank the Authority for the opportunity to comment on the ICASA ICT COVID-19 National Disaster Regulations which seek to offer licensees regulatory relief during the national lock down period and further ensure universal coverage COVID19 related content.

The SABC acknowledges the importance and the role played by broadcasters during this peculiar period. As such, the SABC continues to support and promote the dissemination of COVID19 related content, in the form of public service announcements, news and general information.

That said, the SABC as an organisation has also now completed the section 189 (retrenchment) process and as a result, it has a leaner staff complement. Furthermore, the country is expecting the COVID19 third wave and at this point, the impact thereof is unknown. Be that as it may, it is necessary to anticipate potential disruptions to operations, particularly if there could be a spike in COVID19 infections amongst staff members. The probability is that infections could delay the preparation of quarterly compliance reports and logs, and the sourcing/acquisition of local and sports content. As such, regulatory relief is still necessary during the National State of Disaster.

The SABC will focus on the broadcasting related provisions that affect its business and the submission is as follows:

- 1. Local content quotas for television broadcasting service licensees. Regulation 4(8A)**  
*Regulation 4 (8A) provides that licensees are exempt from local television content quotas as specified in the license*

It should be noted that the SABC continues to strive to meet its local content quotas as well as the mandate deliverables for channels and radio services. Furthermore, the SABC has proper measures in place to continue to flight public service announcements, news and information on the COVID-19 pandemic. However in reality the impact on procurement processes, as well as possible impact on productions with regards to local content is still very much alive and as such, as long as this threat of the resurgence of the pandemic is there, it is safe to keep the abovementioned exemption. As such, it is submitted that the

exemption on local content obligations should be retained for the duration of the National State of Disaster.

**2. Advertising limitations for free-to-air television broadcasting service licensees and programming requirements – Regulation 4(8A)**

*Regulation 4(8A) provides that licensees are exempt from the limitations in respect of advertising and programming requirements as specified in the license conditions*

It is submitted that the abovementioned exemption should be retained as it will offer the necessary regulatory relief to licensees and permit licensees to source advertising and sponsorship revenue to fund COVID19 related content.

**3. Sound broadcasting service licensees - programming requirements and promises of performance – Regulation 4(8A)-(8D)**

*Regulations 4 (8A)-(8D) provide that licensees are exempted from compliance with programming requirements and promises of performance as specified in the license conditions. However, the local music quotas for sound broadcasting services still apply.*

It is submitted that the abovementioned exemptions should be retained, as it will offer the necessary regulatory relief to licensees in instances where content cannot be sourced due to COVID19 related disruptions. That said, the SABC commits that it will strive to meet its overall public service mandate during this period.

**4. Programme syndication – Regulation 4(9)**

*Regulation 4(9) provides that programme syndication must not exceed 45%*

It is submitted that the 45% cap should be retained as it will allow licensees to simulcast, in instances where content cannot be sourced due to COVID19 related disruptions.

**5. Quarterly submission of programming logs and recordings – Regulation 4 (11)**

*Regulation 4(11) provides that the requirement to submit quarterly programming logs and recordings is suspended – however licensees are still required to keep the requisite programming logs for submission at the Authority's request.*

With regards to licensees being exempt from submitting quarterly reports, this is aligned to the abovementioned local content quota exemption, therefore it does make sense that this is kept during the National State of Disaster, especially because of the expected 3rd wave that might hit the country shortly. Thus, the SABC calls for the retention of regulation 4(11) for the duration of the National State of Disaster. Additionally, it is submitted that licensees should be exempt from complying with local content quotas; as and when licensees need to broadcast programming of national interest or importance.

**6. New TV and Radio Performance period (07H00-21H00) –Regulation 4(7)**

*Regulation 4(7) provides a new performance period (07h00 -21h00) for SABC TV and Radio Services*

The new dispensation performance period has no significance if there is an exemption with regards to local content and programming obligations. Thus, the SABC submits that the performance period of 07h00-21h00 could remain the same or licensees revert back to the normal performance period; however, exemptions related to licence and programming obligations; including local content obligations should be retained.

**7. Complaints resolution –Regulation 4 (2)**

*Regulation 4(2) provides that complaints are to be resolved within a reasonable time from the date of notification.*

From the SABC side there has not been a change in turnaround times with respect to complaints management during the National State of Disaster. The SABC has adhered to the same deadlines that apply under normal circumstances, as set by the Authority. However, it is submitted that the Authority should exercise leniency in cases where the SABC is unable to stick to set deadlines due COVID19 related disruptions. Thus, it is encouraged that the Authority should allow for requests for extensions as and when required by licensees or alternatively give licensees reasonable time to resolve complaints.

**8. Services of persons with disabilities – Regulations 4(16) and (17)**

*Regulations 4(16) and (17) provide that during the National State of Disaster, TV Broadcasters must use sign language interpretation in at least 50% of news broadcast during prescribed times (between 07h00 and 10h00 and 18h00 and 21h00 on a weekly*

*basis) and must ensure that all media briefings by the National Command Council broadcast coverage include a sign language interpreter.*

It is the SABC's considered view that the abovementioned provision should be retained as it seeks for promote universal access of COVID19 related information and news. However, there are financial implications related to this obligation and the Authority has to consider this implication and apply leniency where necessary.

#### **9. Channel authorisation: Regulation 4(15)**

Regulation 4(15) provides that subscription broadcasting services can apply for channel authorisation 4 days before the launch of the new channel. However, this provision is silent about a concession for free-to-air services. Thus, it is submitted that this provision should also cover free-to-air services, in the interest of promoting fair competition.

#### **10. Conclusion**

In summary, the SABC may require the Authority's indulgence in terms of some compliance obligations and as such, the engagement with the Authority will be guided by how the country progresses in terms of the COVID-19 pandemic.

The SABC would like to emphasize its gratitude to the Authority for facilitating engagement with stakeholders regarding the regulations for the National State of Disaster. With the Authority's support, the SABC will continue to fulfil its public mandate and provide universal access of public broadcasting services.