



Policy and Regulatory Affairs
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26 September 2023

Att: Ms Fikile Hlongwane
Executive: Licensing and Monitoring
Licensing Department
Independent Communications Authority of South Africa
Private Bag X10,
Highveld Park
0169

E-mail: FHlongwane@icasa.org.za, Licensing@icasa.org.za

CC: NDube@icasa.org.za

Dear Ms Hlongwane,

RE: SOS SUBMISSIONS ON THE APPLICATION OF THE SOUTH AFRICAN BROADCASTING CORPORATION (SABC) IN RESPECT TO THE RENEWAL OF ITS INDIVIDUAL TELEVISION BROADCASTING SERVICES AND RADIO FREQUENCY SPECTRUM LICENCES FOR SABC 1, 2 AND 3

1. The SOS correspondence of 07 September 2023 refers.
2. We have noted that some of the concerns raised by SOS are directed at the Authority and not the SABC. Thus, in this response, the SABC will solely focus on the matters within its control.
3. **On the ICASA monitoring function and the SABC compliance reports:**
 - 3.1. During the licence period, the SABC has religiously submitted compliance reports to the Authority as per the prescripts of the regulations (as acknowledged by SOS in point 8.2 of their submission). Therefore, the SABC can put it on record that all of its commissioning reports, local content reports, and any other ad hoc compliance reports were submitted to the Authority in accordance with the set timeframes.

South African Broadcasting Corporation SOC Limited: Registration Number: 2003/023915/30

Non-Executive Directors: Mr K M Ramukumba (Chairperson); Ms N A Batyi (Deputy Chairperson); Dr R K C Horne; Ms P Kadi; Ms P P Magopeni; Mr D M Maimela; Ms A C Makhwanya; Mr D K Mohuba; Ms M Moonsamy; Ms R M S Motaung; Adv T S Thipanyane; Mr M Tsedu

Executive Directors: Ms N N Wotshela (Acting Group Chief Executive Officer); Mr I C Plaatjes (Chief Operations Officer); Ms Y van Biljon (Chief Financial Officer); **Acting Company Secretary:** Mr S F Mdluli

3.2. The SABC can confirm that during the period under review, the Authority has processed our exemption applications for deviation from compliance with local content quotas in favour of programming of national importance or interest. In these instances, the SABC would have covered listed national sporting events and other programming of national importance to satisfy both the legislative mandate and the ICASA Sports Broadcasting Services Regulations.

3.3 It is worth noting that the Authority has responded positively to all the applications. Stemming from the aforesaid process, it is our understanding that ICASA has monitored our performance in the period under review.

4. On reporting formats

4.1 In the period under review, ICASA has asked for numerous reports from the SABC. In all instances ICASA would have specified the format with which reports must be submitted. Thus, the SABC has no concern with the reporting formats.

5. On the impact of the SABC's the non-compliance on the production sector

5.1 The SABC remains committed to its mandate of developing the production sector and has accordingly delivered the commissioning compliance reports to ICASA as per the prescripts of the regulations. It can also be placed on record that in the period under review the bulk of SABC content was sourced from independent producers.

6. On the submission to refuse the renewal of SABC licences

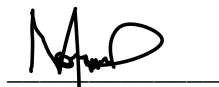
6.1 It is our considered view that the SABC should not be disadvantaged and denied licence renewal for external reasons that are beyond the control of the Corporation. Thus, it is submitted that the legislative procedure should be followed when decisions for renewal are considered. In particular, section 11(7), of the Electronic Communications Act of 2005 (ECA), specifies that the Authority may refuse to renew an individual licence if there has been material and repeated contravention with respect to licence conditions and applicable legislation.

6.2 It is submitted that the licence renewal process should be aligned to the prescripts of Section 11(7) of the ECA. It will be unlawful for the Authority to refuse the renewal of the SABC licences when there has not been any finding of material significance regarding non-compliance with the licence conditions.

6.3 It is our considered view that the SABC has managed to deliver credible content aimed at informing, educating and entertaining its audiences during the licence period. Furthermore, the SABC has delivered content of highest editorial standard across all services and genres; and the SABC has upheld its editorial independence and promoted freedom of expression in providing factual content, as well as accurate, impartial and ethical news and current affairs services. Refusal to renew the SABC TV licences will deprive audiences of information which enables them to participate in the country's democratic system. Thus, it is submitted that the SABC TV Licences (SABC1, SABC 2 and SABC 3) should be renewed so that the Corporation can continue to deliver on its mandate.

7. We trust that our submission will be duly considered.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Philly Moilwa', is written over a horizontal line.

Philly Moilwa

Acting Group Executive:

Legal, Governance and Regulatory Affairs