



**THE SABC ADDITIONAL SUBMISSION ON THE ICASA
DISCUSSION DOCUMENT ON THE ADVERTISING,
SPONSORSHIP, AND INFORMERCIALS REGULATIONS
OF 1999**

10 August 2021

1. Introduction

1.1 The South African Broadcasting Corporation ('the SABC') would like to thank the Independent Communications Authority of South Africa (the 'Authority') for the opportunity to make additional written submission on the 1999 Advertising, Infomercials and Programme Sponsorship Regulations – Discussion Document ('Discussion Document'). This submission will focus on questions posed to the SABC, following the Authority's public hearings on 26 July 2021.

2. ICASA Questions

2.1 The audience data showing that the audience watch programmes during the day. This is to compare prime time/performance period and daytime audience.

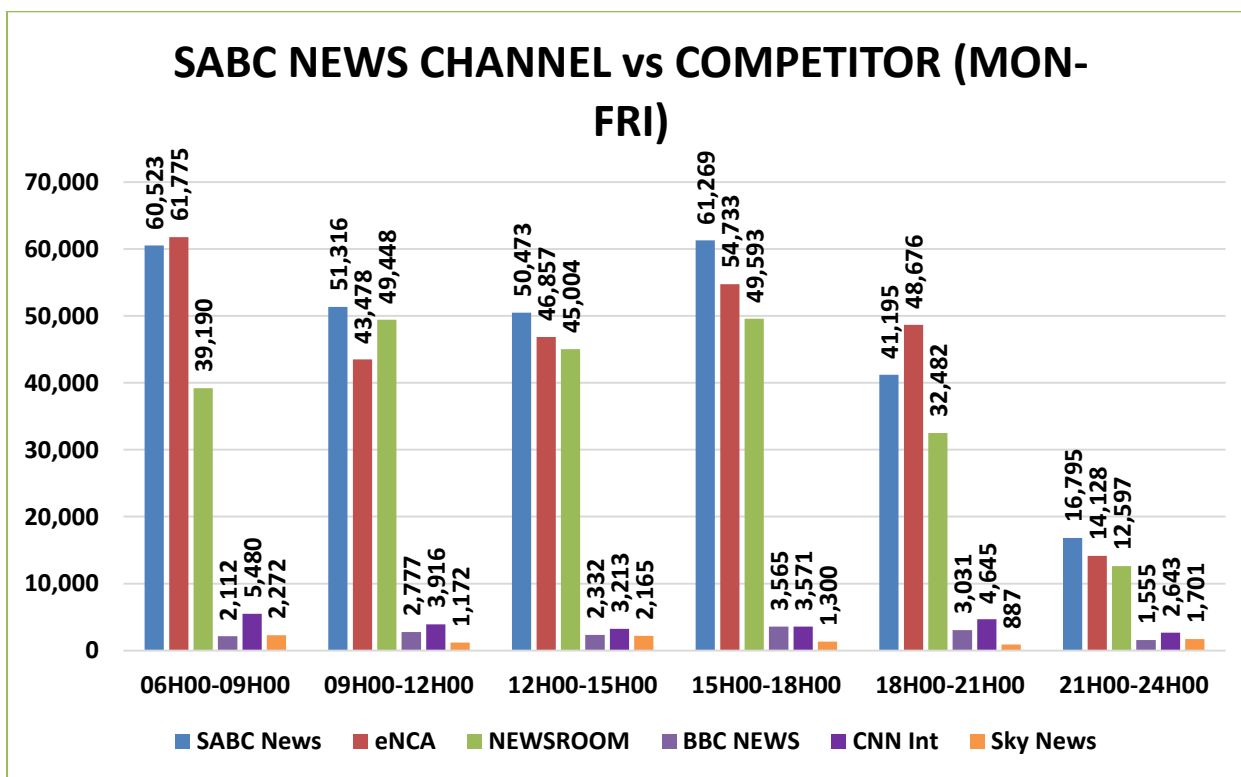
- a) In the written submission¹ the SABC indicated that the concept of prime time regulations is slowly becoming redundant and problematic. For example, in the 24hour News Channel environment, daytime is primetime and primetime news is not watched by many as it competes with entertainment news. Furthermore, some programmes which are broadcast during prime time and repeated during daytime, perform better during daytime, as audiences watch and track content at their convenience.
- b) In a multichannel environment, audiences are able to choose the channels they prefer and watch content at their preferred times, in some cases their preferred content is watched during the day. Essentially, audiences determine their prime time as the digital environment provides this type of choice.
- c) It is understood that the Authority may want to protect children from unsuitable advertising through prime time restrictions or regulations. Whilst it is acknowledged that it is vital to protect children from harmful content, it should also be considered the digital broadcasting technology will have parental control features and furthermore broadcasters will ensure that inappropriate advertising is not scheduled during children's programming. In any

¹ The SABC submission on the ICASA Discussion Document-Advertising Regulations - 07 June 2021, at para 3.5, at page 11

event the ARB is already regulating unsuitable content during children’s programming, i.e. alcohol advertising is prohibited during children’s programming.

- d) It is the SABC’s considered view that since audiences will be able to skip or fast-forward infomercials in a multichannel environment, it is not necessary to prescribe duration for infomercials or to regulate prime time advertising. Thus, deregulation on prime-time is necessary in the digital environment based on the reasons outlined above.

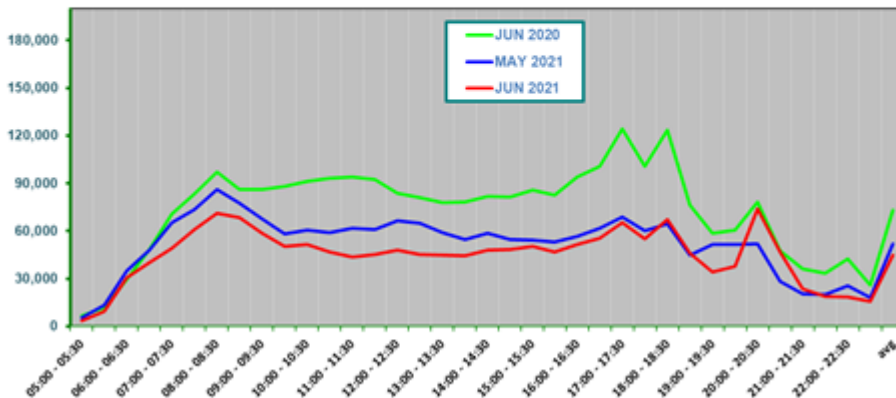
- e) The tables below indicate that the SABC News Channel is mostly watched in the day time, i.e. between 06:00 and 18:00 and the graphs show lesser audiences watch the News Channel during prime time, as there is a vast choice of entertainment during prime-time. In the main audiences have a plethora of channels to choose from, especially, during prime time. Therefore, broadcasters should be left to self-regulate in this area, as the circumstances themselves compel broadcasters to be cautious of excessive advertising or unsuitable advertising scheduling which are likely to cause the audiences to tune out.



SOURCE : NATIONAL MARKET DAYPARTS ADULTS 15yrs JUN 2021

SABC News on 404: Half Hour Ratings (000s)

The audiences on SABC News watch the channel throughout the day, with the peaks occurring at key news-need hours: 8am, 5pm and 6pm. This pattern is repeated over the two months this year as well as last year's June month – at the height of the initial lockdown. The 8pm peaks coincide with the President's regular lockdown updates.



SOURCE : BRC TAMS; NATIONAL MARKET - All ADULTS 05h00-23h00 Mon-Sun AR000s:

2.2 In line with SABC's submission, paragraph 4.2, please propose improved definitions to ensure that they are future proof to cover new players.

- a) The SABC submission was made against the backdrop of the anticipated merger of regulators which will ultimately form the consolidated ICT sector regulator.² Essentially the National Integrated ICT Policy White Paper speaks of the consolidation of regulation across the Internet and ICT value chain³.
- b) Furthermore the AAVCS – Draft White Paper (DWP) seeks to bring about regulatory parity for all players. In particular, the DWP proposes that associated broadcasting services, like, catch-up services and internet services should be subjected to an industry code of conduct. Additionally, the DWP proposes that the code of conduct should also be applied through self-regulatory bodies, such as the BCCSA, in consultation with ICASA/ICT Sector Regulator for all audio and audio visual content service providers.

² National Integrated ICT Policy- White Paper 2016, para 13.4.1.2, at page 166.

³ *Ibid*, at page 156

- c) Thus, it is anticipated that at some point the ICT Sector Regulator will have jurisdiction on all the audio and audio visual content service providers. As a result the advertising definition should be suitable for all audio and audio visual content service providers.
- d) In Australia, the Australian Association of National Advertisers (a self-regulatory body) defines advertising as: “any material which is **published or broadcast** using **any medium or any activity** which is undertaken by, or on behalf of an advertiser or marketer, over which the advertiser or marketer has a reasonable degree of control, and that draws the attention of the public in a manner calculated to promote or oppose directly or indirectly a product, service, person, organisation or line of conduct”⁴. A lesson can be drawn from this definition, as it is broad enough to cover both broadcasts and publications of all audio and audio visual content service providers.
- e) In South Africa, the Authority defines advertisement as “any material broadcast, in visual and/or audio form, for which **the broadcaster** receives a consideration, in cash or otherwise, and which promotes the interests of any person, product or service...” This definition is specific to broadcasters and could be improved by the inclusion of publications of all audio and audio visual content service providers.

2.3 **Other matters**

The SABC wishes to clarify what it was trying to convey in paragraph 3.4.1 of its written submission⁵, with respect to the Authority’s power to prescribe advertising regulations. Paragraph 3.4.1 was supposed to state that prior to the 2014 amendments to the Electronic Communications Act (‘the ECA’), the law was silent on the Authority’s powers to prescribe advertising regulations. Be that as it may, now section 55 of the ECA, as amended, is expressive and clear on the Authority’s powers to prescribe the advertising regulations.

⁴ <https://adstandards.com.au/issues/what-advertising-or-marketing-communication>

⁵ SABC submission on the ICASA Discussion Document-Advertising, Sponsorships and Infomercials Regulations - 07 June 2021, at page 10

3. Conclusion

The SABC would like to thank the Authority for the opportunity to submit additional written representation and looks forward to further engagement with the Authority with regards to the next step of the public consultation process. Additionally, the SABC anticipates that the Authority will safeguard the financial viability of the SABC so as to enable the corporation to deliver on its public service mandate.