



DATE: 15 March 2018

TO : Independent Communications Authority of South Africa

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**RE: DRAFT SPORTSBROADCASTING SERVICES AMENDMENT REGULATIONS
2018**

Background:

1. Football on National level involves various stakeholders, which includes the players, the club, the league (also known as the National Football League, "NSL") and the national association affiliated to FIFA, namely the South African Football Association ("SAFA").
2. The player component to the above relationship is of utmost importance in order to have a sport called football. Without any players, football cannot exist.
3. The Federation Internationale De Football Association ("FIFA") forms the overarching regulatory body dealing with football internationally. FIFA has compiled what is known as the regulations on the status and transfer of players which essentially deal with a variety of regulatory issues governing essentially that which football is all about namely playing of a game.
4. The South African Football Association ("SAFA") is the national football association which govern football in South Africa and that is affiliated to the Confederation

- of African Football ("CAF") and by virtue of its membership to the Federation of International Football Federations ("FIFA").
5. Professional football in South Africa is regulated by the NSL, a founding and special member of SAFA having as its members the clubs, which participate in professional football from time to time.
 6. Professional football is played under the auspices of the NSL and professional footballers employed by the professional clubs who are members of the NSL are employees in terms of South African law and international football jurisprudence, who campaign in the premier and national first divisions of that association.
 7. In consequence of the nature of the sport of association football and the football rules, all professional Clubs and professional footballers are subject to the NSL rules and furthermore also to the rules and regulations of SAFA, CAF, and/or FIFA. These rules will be referred to generically as the "football rules".
 8. It has furthermore been agreed between FIFA and FIFPRO, on 2 November 2006, that FIFPRO shall be regarded as the sole organisation representing professional footballers' unions around the world.
 9. The South African Football Players Union ("SAFPU") is the only affiliated and recognised football players' union of FIFPRO in South Africa.
 10. SAFPU was established in 1997 in line with the Labour Relations Act of 1995 as amended, to protect and defend the rights of football players.
 11. SAFPU has been in existence for more than 21 years making sure that football players are not only treated as entertainers who perpetually die in abject poverty after giving so much to the general public but are also remunerated for their contribution in developing the sport.
 12. Football became a career in the lives of many a player and has had which had a great impact in addressing the socio-economic challenges in the developmental South Africa.
 13. For many years football players were at the receiving end of the food chain, they lived in poverty despite being professionals, due to lack resources because all resources we directed to cater for previously advantaged sport bodies.
 14. Former players who plied their trade in the early years of the game retired to abject poverty as a result of broadcasting and sponsorship revenue not being optimized by offering it to the highest bidder.
 15. SAFPU is furthermore the sole football players' union, which is recognised by the NSL and who has a collective bargaining agreement with the NSL and its clubs / members.
 16. SAFPU represents at least 687 professional players in South Africa.
 17. SAFPU is not the traditional union.

SAFPU'S objectives are:

- 17.1. To protect the rights of professional footballers in South Africa;
- 17.2. To educate professional footballers;

- 17.3. To ensure that footballers are guided in financial literacy and wealth management of their lives;
- 17.4. To assist and make provisions for footballers' life after football;
- 17.5. To ensure that transformation is not only political but takes aspects such as ownership and financial freedom into consideration.

The reason and objectives of these submissions:

- 18. Considering the difficult economic situation our country finds itself in and the uncertainty about financial stability, it is of great importance that SAFPU assist its members and all professional football players in how to create wealth and financial literacy.
- 19. Financial sustainability is therefore very important in order to ensure contractual stability and enable the football players to make provision for his or her future after a very short career.
- 20. A stable financial industry and/or career does have a direct impact on the social development of the people of South Africa and furthermore to the development of the sport itself.
- 21. It is also important to note that as the only vanguard of football players, SAFPU have always advocated and continue to advocate that revenue generated through the sport should play a critical role in the holistic development of the sport including socio economic issues confronting us as a nation.
- 22. There can never be true development of the game if proper resources are not channelled into the game as it ought to be.
- 23. There are still several outstanding issues that we are engaging the league on such as the minimum wage for both the PSL and National First Division (NFD) which we hope to resolve on soon. Notwithstanding all outstanding issues, SAFPU support the submissions of the NSL that since it was entitled to sell its broadcasting rights to the highest bidder, there has been an improvement in the living standards of the professional players in South Africa. Therefore, any limitation and/or decrease in broadcasting revenue, will greatly impact the financial wealth of professional players in South Africa.
- 24. It is also important to state that there are several outstanding issues including but not limited to the minimum wage, insurance, medical aid and provident fund, to mention just a few that the football stakeholders are still to address. In the event any regulations are approved in order to decrease and/or limit the revenue income of football, it will have a serious impact on the development and implementation of the above outstanding and very important matters.
- 25. SAFPU is furthermore also advocating for special sport tax for all professional football players, in order to ease all the financial burdens on the players, given the harsh impact tax has on professional sports people. SAFPU have also questioned the appropriateness and fairness of the current tax treatment of football players

from a South African perspective and in a joint venture is currently busy with the University of Johannesburg to establish whether there are not any means how and where assistance can be given to these professional players.

26. Players unfortunately do not have anything to fall back on upon retirement. No pension and/or professional tax system was ever created for football players in South Africa and any reduction in their earnings will make it extremely difficult for them to survive beyond their playing days. Unfortunately, players are taxed exorbitantly like ordinary workers, in the absence of a special tax for players it will be very difficult to look at any reduction in players earnings.
27. Professional football players in SA have active careers for a limited number of years (5-7 years on average).
28. Many players also have the burden of having to take care of parents and siblings and other extended family members. Professional players are therefore greatly important in the social development and the development of football in South Africa.
29. Research has shown, also internationally, that many professional sportspeople are in serious financial trouble shortly after the end of their careers, especially if they do not actively pursue a second career.
30. SAFPU expressed their concern about the ability of football players in South Africa to manage their finances and plan for "retirement".
31. A strict regulation of revenue streams in a free market society will result in a negative growth of the sport and socio-economic development.
32. The ability to get the best deal for the broadcasting rights coincided with players' salaries increasing, greater investment in the development of the sport and upliftment of the greater social society.
33. The aforesaid will only be achieved if the revenue stream is optimized without any limitations. This will furthermore create the opportunity and ability to negotiate more and better rights and conditions for all professional players.
34. SAFPU fully appreciate that football is a game of millions and many a people would want to have access to all the games that are broadcasted, however limiting your income stream will not only have a great economic impact on the professional players, it will also have a direct and indirect effect on other industries such as tourism and construction.
35. Football is not just a game to entertain members of the public, it is more than that as it forms a fundamental part of social development for the other part of society.
36. The impact of the draft regulations will have a direct effect of the career of football and may also be an indirect contravention of the right to work as being stipulated in the South African Constitution.
37. SAFPU is greatly concerned that the amendment to the regulations will result in job losses, contrary to the main objectives of our government, namely job creation.
38. SAFPU respectfully submit that a balance must be struck between making football available to everyone as well as ensuring that those who are entertaining the public are properly remunerated and that the sport is developed. In order to achieve this, the best deal for the broadcasting rights must not only be interfered with but be encouraged as it were. Exclusivity does place a premium on any product, which will result in increased revenue stream to the benefit of all stakeholders in football.

39. In fact, government must rather join forces in ensuring that the best is derived for citizens as this automatically deal with the question of the transformative agenda. The transformative agenda deal with the disparities between salaries received by professional players and the development of the sport of football.
40. It is submitted with the greatest respect, that the draft regulations in its present format will harm the football industry in a big way and lead to players' livelihood being destroyed, and sadly as a country we would not be able to compete with the best in the world. As stipulated above, the draft regulations will have a great impact on contractual stability.
41. In order for the sport of football to succeed and grow, maintenance of contractual stability between the stakeholders is very important.
42. This contractual stability includes but is not limited to a proper regulated employment relationship between players and the clubs, the clubs and the NSL and various parties for deals responsible for further income revenue for all stakeholders in football e.g. broadcasting deals and sponsorship deals.
43. The players therefore form an integral part of making a success of this relationship.

Conclusion:

44. Football, soccer as it is known in South Africa, is the game of the people, or so it is said. There are not many sports that can be put together in an organised manner with so little resources.
45. With reference to the submissions made by the NSL, football is regarded as the sport in South Africa, which is played and watched by most of the South African population.
46. Football is a fulltime career for at least a 1000 (thousand) players in South Africa.
47. The very sport itself is an expression of both collective culture and individuality.
48. For most professionals playing in South Africa, football also represents an escape from a life addled by social and economic strife.
49. Poverty can be a powerful motivator, even if it is one undoubtedly tragic in nature. Football has long been a vehicle for many underprivileged men and women to improve their financial circumstances, never more than in the present as in the past.
50. The true beauty of the matter lies not only in that those successful in this regard are able to rise due to their own blood, sweat and tears – but that in doing so their families are lifted, while thousands of fans can revel in and derive joy from their achievements.
51. Truly making the sport professional, allowing the broadcasting rights to be sold to the highest bidder and contribute to uplift these professional players in some sense.
52. Many of these players are young and inexperienced (maybe even ignorant and to an extent illiterate) with regards to dealing with their finances.

53. It is important to assist and empower football players to understand and manage their finances, however all these will be irrelevant if they are not paid a proper and reasonable salary.
54. SAFPU needs to ensure its members and all professional players have proper medical aid, retirement fund, receive best advice on dangers of drugs and alcohol as well as access to proper education. In order to achieve these objectives, SAFPU needs financial assistance, which at times comes in a form of grants from the PSL. Whilst there are still a number of things which are a subject of discussions with the league, including grants, we strongly believe that, any decrease in any kind of income revenue to the NSL, will furthermore greatly prejudice the players, clubs and SAFPU by making it impossible to provide a professional player the best possible assistance in their financial wellbeing.
55. Any limitation on financial income, which affect football, could mean a drastic change in the livelihood of football players, as this might take away the ability of the NSL to get the best deals in sponsorship or broadcast rights.
56. Sponsorships is all about exposure. The lesser the exposure the lesser the sponsorship, the lesser the financial contribution to SAFPU and football players, which will result in greater poverty for South Africa's populations.
57. The inability thereof could have dire unintended consequences, which could force players to settle for salaries below the breadline as a result of reduction in sponsorship.
58. Professional players and SAFPU cannot afford to have a situation which is counterproductive and unintendedly designed to take away the very little that players are getting.
59. It is football players' childhood background; a life spent growing up in the streets, without food, money or luxuries, working for their livelihood from a tender age, knowing it is a tough place out there, with the only thing that gave them comfort and solace being that magical sphere 28 inches in circumference, namely football.
60. Maybe it was this tough upbringing that made them fight hard for success, knowing from an early age that things seldom go your way and that you must fight, fight and fight more to achieve something.
61. Regulating the manner of distribution of the income revenue stream is of much greater importance than regulating the amount of revenue to be generated.
62. It is from this perspective, that SAFPU on behalf of the professional players of South Africa are addressing this very sensitive matter and hoping that all stakeholders will be engaged in meaningful resolution in respect of the right to free to air TV and the right and entitlement to a fair and reasonable income, from a career all players are giving their everything.
63. Further to the submissions above, we submit that it will be in the interest of all parties, that all stakeholders are invited to further consultations in order to find the best resolutions of the stakeholders and South Africa.
64. As we are fully aware, sport is an important factor and has the potential to unite a nation. Let's make use of this opportunity and engage meaningfully.
65. We thank you for affording us the opportunity to make these written representations and further hope that we will also be accorded the opportunity to make oral representation.

66. SAFPU gives it full support in constructively contributing and co-operating in resolving this matter.

We look forward to your reply as well as be invited to make oral representation in support of our submission in this regard.

For and on behalf of SAFPU and NOBs' collectively,

Regards



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