

This submission is made by the following industry organizations



INDEPENDENT  
PRODUCERS ORGANISATION



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Mr Davis Kgosimolao

ICASA

Email: Covid19regulations@icasa.org.za

7 May 2021

Dear Mr Kgosimolao

**SUBMISSIONS ON ICASA'S ICT COVID-19 REGULATIONS BY THE SOS COALITION, THE INDEPENDENT PRODUCERS ORGANISATION AND BY THE SOUTH AFRICAN SCREEN FEDERATION**

1. These submissions are made by the SOS Coalition (SOS), the Independent Producers Organisation (the IPO) and the South African Screen Federation (SASFED), collectively “the Organisations”.
2. In Notice 266 published in Government Gazette No. 44488, dated 23 April 2021 (the Notice) ICASA called for written submissions on issues which Icasa should consider regarding its proposed review of its ICT Covid-19 National Disaster Regulations published in Notice 238, Government Gazette No. 43207, dated 6 April 2020 as amended (the ICT Covid-19 Regs).
3. The SOS Coalition (SOS) is a civil society coalition that is committed to, and campaigns for, broadcasting services that advance the public interest. While the SABC is our primary focus – as the key site of and the institution established to drive public interest broadcasting – SOS also engages in the advancement of community broadcast media in South Africa. SOS is made up of a broad range of civil society organisations, trade unions and their federations, and individuals (including academics, freedom of expression activists, policy and legal consultants, actors, script-writers, film makers, producers and directors). SOS campaigns tirelessly for an independent and effective public broadcaster. We engage with policymakers, regulators, and lawmakers to secure changes that will promote citizen-friendly policy, legislative and regulatory changes to broadcasting and its associated sectors.
4. The Independent Producers Organisation (IPO) is a national organisation which represents, protects and promotes interests and needs of independent South African film, television and digital content producers. It strives towards creating an empowered, transformed and representative industry, by

partnering with key stakeholders towards the advancement of a sustainable and enabling environment for producers and, recognizing their role and responsibilities as the engine drivers of work throughout the industry value chain, to creating opportunities for the full value chain of workers across and suppliers to the sector. The IPO aims to maximize the industry's potential to contribute to the country's economy, and to preserve and promote South Africa's national identity and stories. It currently represents over 70% of working producers in South Africa

5. Known as “The leading voice and champion of the South African Screen Industry,” The South African Screen Federation (SASFED) is the national federation of independent film, television and audio-visual industry organisations in South Africa. Founded in 2006 in response to Government’s call for the independent screen industry to speak with a united voice, SASFED represents many professionals and companies that are operating in an increasingly diverse and growing sector. The membership of these organisations operates in all the provinces of South Africa, making SASFED’s membership truly national.

SASFED is guided by a constitution, which states that only bona fide industry bodies may join, and proudly represents the collective core of South Africa’s independent screen industry, with current full member organisations : Documentary Filmmakers’ Association (DFA), Independent Black Filmmakers Collective (IBFC), Independent Producers’ Organisation (IPO), Personal Managers’ Association (PMA), Animation South Africa (A.S.A), South African Guild of Actors (SAGA), Sisters Working in Film and Television (SWIFT), South African Guild of Editors (SAGE) and Writers’ Guild of South Africa (WGSA).

6. The Organisations thank ICASA for this opportunity of making these joint written submissions on the ICT Covid-19 Regs and request an opportunity to make a joint submission in the oral hearings pertaining thereto, if any.

## 7. THE PROBLEM

- 7.1 As ICASA is aware from previous interactions between the Organisations and it on the ICT Covid-19 Regs, the local television content production industry reacted with shock when, on 5 May 2020, the ICT Covid-19 Regs were amended to introduce, *inter alia*, section 4(8A) and references thereto in section 4(8D), directly in response to one-sided and self-interested written representations by the National Association of Broadcasters and without any consultation at all with the independent production sector or with the public at large.

- 7.2 As ICASA is also aware, section 4(8A) has had a devastating impact on the independent production sector which has been already significantly hit by the introduction of section 4(7) which reduced the performance period by four hours a day, and by the Covid-19 Pandemic more broadly.

7.3 Despite a number of oral and written engagements between the Organisations and ICASA which took place in 2020, no amendments to section 4(8A) have been forthcoming to date, despite the Organisations having forwarded a proposal for revised wording of the amendments to limit the damage to the independent production sector while still balancing the interests of broadcasters, and despite ICASA's repeated acknowledgements both to the Organisations and to Parliament, that its consultation processes were defective and not in accordance with natural justice, the Pandemic notwithstanding.

## 8. PROPOSED AMENDMENT TO THE ICT COVID-19 REGS

8.1 The Organisations hereby submit that in order to ameliorate the damage that has been done to the sector, it is imperative that section 4(8A) be repealed as soon as possible by ICASA. With independent producers having demonstrated their ability to continue delivering local content over this past year despite the Pandemic, there is simply no longer any justification for favouring the interests of television broadcasters over independent producers and the production of local content. The unfairness of the situation simply cannot be allowed to continue further.

8.2 The Organisations submit that this will also require the consequential amendment of section 4(8D) of the ICT Covid-19 Regs to remove the reference to section 4(8A) therein.

8.3 The effect of the repeal of section 4(8A) is that the SA Television Content Regulations, 2016, continue to be in force during the Pandemic albeit in a modified way due to the shorter performance period that was introduced in section 4(7) of the ICT Covid-19 Regs, in respect of which the Organisations have no issue despite the potential impact on this beleaguered sector of a possible 22% reduction in production volumes.

We trust that you find the above to be in order. Please do not hesitate to contact us should you have any queries or require any further information.

Yours sincerely,



**Duduetsang Makuse**  
**National Coordinator**  
**SOS Support Public Broadcasting Coalition**