

24 July 2020

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**DRAFT CODE FOR PERSONS WITH DISABILITIES REGULATIONS FOR FURTHER PUBLIC COMMENTS**

**ICASA NOTICE 317 OF 2020 - GOVERNMENT GAZETTE NO: 43418 DATED 12 JUNE 2020**

Thank you for the opportunity to provide further public commentary on the Draft Code for Persons with Disabilities wherein the Independent Communications Authority of South Africa (“the Authority’) outlines its intentions to prescribe regulatory codes to make broadcasts more accessible to persons who are Blind or Deaf.

**INTRODUCTION**

**Tape Aids for the Blind** hereby provides written representations that incorporate the comments of previous existing submissions that it actively participated in, for and on behalf of the following two other entities:

1. **The ICT Chamber for Persons with Disabilities’ Accessible and Affordable Working Group, Sub-Committee for Accessible Broadcasting** (convened by Elza-lynne Kruger – National Executive Director of Tape Aids For the Blind)
2. **The South African National Council for the Blind (SANCB)**, Elza-lynne Kruger is an elected member of the SANCB National Executive Committee (NEC) and was mandated in 2018 to represent the SANCB’s interests on matters affecting the blindness sector on the ICT Chamber’s various sub-committees. The SANCB is also a Member Organisation of the ICT Chamber’s Working Group.

EXPECT THE SPOKEN WORD TO OPEN WHOLE NEW WORLDS

National Chairman: Mr J P Dippenaar National Executive Director: Ms E-L M Kruger

Tape Aids For The Blind is an Approved Public Benefit Organisation in Terms of the Income Tax Act

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Furthermore, Tape Aids’ respectfully requests the opportunity to also make oral presentations on behalf of the three aforementioned entities, as provisioned in item 7 of Dr Keabetswe Modimoeng’s cover letter to the Draft Codes.

Tape Aids’ is encouraged by the authority’s stated commitment to ensure that its regulatory decisions advance transformation in the ICT sector and unlock convergence opportunities presented by the 4th industrial revolution and the digital economy.

Also by the Minister of Communications and Digital Technologies Policy Directive issued to ICASA on the 10 July 2020, for the introduction of Digital Sound Broadcasting in South Africa. This Directive indicated a desire to enable broadcasters to remain relevant, current and empowered to compete in a network converged environment. Providing certainty within the broadcasting sector, ensuring that there was spectrum efficiency, quality and affordability services, whilst attaining goals for universal service and access to all.

**ICT CHAMBER’S ACCESSIBLE BROADCASTING SUB-COMMITTEE**

In my capacity as Convener of the ICT Chamber’s Accessible Broadcasting Sub-committee I thank the authority for their Draft’s inclusion of a warning to photosensitive viewers.

I am also grateful for the accessibility provisions afforded to the Deaf and hard of hearing as prescribed and presented by DeafSA who is also a member Organisation of the ICT Chambers’ Affordable and Accessible Working Group and whose members participant on our accessible broadcasting sub-committee.

However, on behalf of the blindness sector, I once again raise our concerns regarding provisions for audio description bearing in mind that the criteria for its introduction, methodology and regulation is totally dissimilar to that of the Deaf and hard of hearing sector. Attempting to match criteria for these two distinctly different sectors that rely of different aspects of audible and visual broadcasting, is not possible and should be discouraged.

**SUMMARY OF AUDIO DESCRIPTION ISSUES AFFECTING THE BLINDNESS SECTOR**

The production of an audio described sound track is extremely subjective and requires regulation and copyright permissions as it is a purely creative interpretation of the visual activities, inserted in-between the dialogue. Unlike Sign Language, which is a literal language translation or closed captioning which is the printed version of the actual spoken word, with the inclusion of printed advice as to the actual sound effects and music titling.

Our original major concerns with the imposition of audio description in the licensing of television broadcasters, remain:

1. The imposition of quotas in the absence of a Regulatory Impact Assessment (RIA) to determine accessibility and affordability by blind consumers (majority of whom reside in rural areas and only have access to radios); likewise, accessibility and affordability for broadcasters and producers to accommodate audio descriptions in an existing soundtrack with pre-existing dialogue whilst also taking into consideration copyright permissions and costs.

Whilst the blindness sector is mindful that the authority’s original 2011 and 2014 quotas have been drastically reduced from 50% in year one to 2%, we are also of the opinion that initially a radio channel broadcasting audio described soundtracks would be a far more immediately accessible and affordable introduction to audio description by majority of blind and vision impaired persons, until such time as the creative and physical infrastructure and the necessary expertise for the production of audio described soundtracks, together with the networks synchronization with the visual content was achievable. Especially given the prolonged delays in the public broadcaster’s migration to Digital Terrestrial Television (DTT) and the limited reach of the DTT footprint in remote rural areas.

Furthermore, broadcasting audio described soundtracks on radio via AM frequencies, will free up critically needed spectrum in the VHF (Very High Frequency) bandwidth for the implementation of DTT and 5G broadband requirements. As well as freeing up DTT’s 2nd audio channel to rather broadcast OTT (Over-the-Top) simultaneous language translations in the various indigenous mother-tongue languages, on television broadcast channels.

In the initial introductory phasing in of the Accessibility Services regulations, the blindness sector would therefore recommend the removal of audio description quotas. Instead, the authority may consider replacing quotas with a Universal Service Obligation imposed on television license holders that provides much needed digital radio channel or station serving the listening needs of the blindness sector as well as well as providing educational digital radio services to the 438 Basic Education Institutions for Schools for all students with Special Needs. Especially since Digital Radio is able to broadcast both audio and data in the form of text and images for the benefit of BOTH Blind and Deaf persons as well as dyslexic students who have difficulty reading for meaning (more than 10% of the population of South Africa is dyslexic and more than one-third of students in grade 4 cannot read with comprehension).

Refer to Page 7 of the attached **Addendum D:** “ICT – Working Group – Submission on the Draft Code for Persons with Disabilities (submitted to on 17 January 2018) which incorporated the following three Addendum:

Addendum A: Accessible Broadcasting Sub-Committee Progress Report to the Working Group Meeting 22 November 2017

Addendum B: SABC Editorial Policy Review Submission by Working Group’s Accessible Broadcasting Sub-Committee 31 August 2017

Addendum C: Accessible Broadcasting Sub-Committee Progress Report to the Working Group Meeting June 2017.

All the above Addendum may also be found on the ICASA Website:

<https://www.icasa.org.za/legislation-and-regulations/regulations-underway/code-for-persons-with-disabilities>

1. The inclusion of audio description into regulatory policy since 2011 without the process being driven by nor in consultation with, the blindness sector’s national body, the South African National Council for the Blind (SANCB) who acts for and on behalf of over one million blind and visually impaired persons through its affiliated Member Organisations, was a major concern. It is noted that neither was the SANCB mandated by any of its 100 Member Organisations to impose the requirement for audio description on broadcasters. Majority of blind persons live in rural areas and listen to radio as they do not own television sets.
2. Once the concept of audio description was introduced on SABC programming in 2015 with the unconventional ‘hybrid’ audio described production of “Sticks and Stones” a large group of blind persons requested that an Accessible Broadcasting Sub-Committee be created within the ICT Chambers’ Working Group structure, to advocate and lobby for and on behalf of the sector, expressly to deal with negative sentiment from mainstream television viewers.

Also to counter negative public response to the costs of providing audio description on television channels. The ICT Chamber’s Accessible Broadcasting sub-committee was requested to investigate the benefits of providing audio description soundtracks on both analogue and digital radio channels as well as radio broadcasts being able to be streamed via mobile phones with inbuilt accessibility apps used by majority of blind persons. Giving them access to and an independent broadcast radio listening experience of audio description soundtracks via their cellphones.

Refer to **ADDENDUM D** and Slide 1 of **Addendum E:** ICT-Chamber-presentation-on-\_draft-code-for-persons-with-disabilities 11 June 2019” which was presented at ICASA’s 2-Day Workshop, which may also be found on the ICASA Website:

<https://www.icasa.org.za/legislation-and-regulations/regulations-underway/code-for-persons-with-disabilities>

**POSSIBLE RECOMMENDED AMENDMENTS FOR THE INCLUSION OF RADIO INTO THE REFERENCES FOR AUDIO DESCRIPTION IN THE DRAFT REGULATIONS**

**GOVERNMENT GAZETTE NOTICE 317 OF 2020**

1. **Page 125: Definitions – “Accessibility Services”** means a service such as Audio Description, Closed Captioning, Subtitles, [Sign Language,] or any other similar service [broadcast on either Television or Radio]
2. **Page 125: “Applicable Channels”** means all television [and or digital sound broadcasting channels] broadcast by a television broadcasting licensee except a third-party channel(s) consisting predominantly of live programming content such as news, reality or sports;
3. **Page 125: “Audio Description”** means oral commentary that gives a viewer [or listener] who is blind or partially sighted a verbal description of what is happening [visually, between the dialogue] ~~on the television screen at any given moment~~. It is provided as an aid to the understanding and enjoyment of the [visual elements] in the programme. ~~The technique uses a second sound track that gives a description of the scene and the on-screen action~~. [The audio described soundtrack may be broadcast simultaneously on television via a second sound track, or alternatively as an independent audio described sound track as a radio broadcast].

It is noted that not all television programmes or films are able to accommodate an audio description sound track since the description of the visual scene or action, may only be provided in the gaps between the dialogue. Whereas audio description that is broadcast on radio and not broadcast on television simultaneously to synchronize with the visuals, could accommodate longer gaps for the descriptions to be inserted. Within the dialogue.

1. **Page 126: 3. BASIC STANDARDS FOR BROADCASTING SERVICE LICENSEES - Accessibility Services**
2. A television [and or radio] broadcasting service licensee must implement the following Accessibility Services on Applicable [television or radio] Channels:-

(a) Audio Description

1. **Page 127 – Audio Description**
2. The objective of Audio Description is to aid the understanding and enjoyment of a [visual production] ~~television programme.~~
3. A [television or radio] broadcasting service licensee must maintain quality access [in accordance with universal standards and guidelines to be prescribed] to Audio Description, which is essential for ensuring that audiences using broadcasting services benefit from them.
4. **Page 127 –** the addition of **“Closed Captioning”** should be added as item (6):

(6) A television broadcasting service licensee which provides **Closed Captioning** must:

(a) consider the requirements given for subtitling in providing the printed version of the spoken word as well as

(b) include an written depiction of the actual sound effects and

(c) provide the titles of music played within the soundtrack

1. **Page 130 – Improving Accessibility-**

(2) A television broadcasting service licensee must ensure that its services are made available and are accessible to persons with Disabilities. [In the case of blind and visually impaired persons, these may either be a synchronized second audio channel or a separate Digital Sound **B**roadcasting (DSB) radio channel]

1. **Page 131 Audio Description:** A television broadcasting service licensee which provides Audio Description must [either] implement the following minimum percentages of total Audio Description, measured across its broadcasting service on Applicable Channels, [or provide a similar number of broadcast hours of audio described soundtracks on an independent radio channel; or alternatively, provide the equivalent financial value of Digital Sound Broadcasting (DSB) equipment or digital recievers to persons who are blind or vision impaired, under a Universal Service Obligation agreement to be prescribed].

**In Conclusion**

As the broadcasting and telecoms services become more connected, converged and integrated, the focus is now squarely on how mainstream broadcasters can work closely together with various stakeholders in civil society, government, non-profit and private sectors, to make broadcast content more accessible and affordable by persons with disabilities for their inclusive enjoyment.

Tape Aids For the Blind, a Non-Profit Organisation founded in 1958, whose staff and members participated in various audio description workshops in various major centres in 2014 when the concept was first introduced to South African civil society and who hosted international Audio Describe trainers as well as making available its 30 recording studios countrywide, for the recording of audio described soundtracks, together with offering its volunteer corps of over 500 narrators and proof-readers to the sector, and being an active participant with Thembeka & Associates in ICASA’s Digital Sound Broadcasting Hearings and deliberations and the introduction of Digital Radio to Sentech, welcomes the opportunity to provide additional information and an oral presentation as to convergence of ICT technologies, in association and or collectively with persons from the two other entities represented herein, with which it enjoys Members Organisation status, those being:

1. The ICT Chamber’s Accessible and Affordable Working Group’s sub-committee involved with Accessible Broadcasting matters, providing an ideal platform for dialogue and engagement between government, the private sector, the non-profit sector, academia and civil society.
2. The South African National Council for the Blind (SANCB) an umbrella body representing 100 members organisations, whose services include advocating and protecting the rights and provisions for persons who are blind or vision impaired.

Thank you for this opportunity to provide commentary. Await your further advice regarding the opportunity to make oral presentations.

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Elza-lynne Kruger

National Executive Director: Tape Aids for the Blind

Convenor: ICT Chambers’ Working Group - Accessible Broadcasting Subcommittee

National Executive Committee member: South African National Council for the Blind (SANCB)