



Birchwood Court, West Wing
43 Montrose Street
Vorna Valley, 1686
Tel (011) 655 7257
Fax (011) 655 7011
E-mail: thami@tenox.co.za
Cell: 083 222 5227
Contact: Thami Xulu

Suite 10
232 Boom Street
Pietermaritzburg, 3201
Tel (033) 342 0765
Fax 086 669 1758
E-mail: njabulo@tenox.co.za
Cell: 072 607 6050
Contact: Njabulo Ndlovu

Reg. No. 2014/072994/21; VAT No. 4270260690; SAIPA Accredited Training Centre (ATC) No. 2526

• Accounting • Independent Review • Tax • Advisory • Business Support • Valuations

04 February 2019

Attention: Ms Violet Molete
Email: vmolete@icasa.org.za
pcokie@icasa.org.za

Independent Communications Authority South Africa (ICASA)
350 Witch-Hazel Avenue
Eco Point Office Park
Eco Park, Centution
Tel 012 568 3000/1

Dear Ms Molete

Re: Draft Sports Broadcasting Services Amendment Regulations, 2018

I refer to the above-mentioned subject matter as published in the Government Gazette of 14 December 2018, No 42115, and provide a brief synopsis of how we see the impact of the proposed sports broadcasting regulations.

Introduction

Our interest as a management consulting firm, stems from the initial basis of our formation as a sports management company, which later on over the years changed to a much wider focus that cover all aspects of business within the various sectors.

Proposed regulations

The proposed regulations are an improvement from the current legislation in that they emphasize a few critical aspects that seek to promote wider access to the broadcasting of sports for the public benefit (i.e. national interest)

The classification into Groups (i.e. Group A to Group C) of various rights also seek to make a distinction of broadcasting services so that we know before-hand what content to expect and financial resources required to enjoy those services.

However, the proposed legislation is deficient on one fundamental issue, which is around '**non-exclusivity**'.

Proposed solution

Any established and upcoming sports broadcaster, will consider the following important factors before setting shop, namely

- Value
- Market
- Technology, and
- Regulations



Birchwood Court, West Wing
43 Montrose Street
Vorna Valley, 1686
Tel (011) 655 7257
Fax (011) 655 7011
E-mail: thami@tenox.co.za
Cell: 083 222 5227
Contact: Thami Xulu

Suite 10
232 Boom Street
Pietermaritzburg, 3201
Tel (033) 342 0765
Fax 086 669 1758
E-mail: njabulo@tenox.co.za
Cell: 072 607 6050
Contact: Njabulo Ndlovu

Reg. No. 2014/072994/21; VAT No. 4270260690; SAIPA Accredited Training Centre (ATC) No. 2526

• Accounting • Independent Review • Tax • Advisory • Business Support • Valuations

So, there must be a market and commercial value which allows that broadcaster to have product offerings that are sellable and scalable, as that is the fundamental basis for huge financial investments to be made.

Progressive regulations are then enablers and catalyst for latest technologies to be deployed to offer the product and continuously make improvements on, so that the broadcast provides value for money to the recipient.

Furthermore, the intellectual capital protected through CIPC, which allows new ideas or concepts to be developed encourages the commercialisation of those ideas or concepts under a safe environment so as to reap the benefits out of it. So, by creating a stumbling block of 'non-exclusivity' the true value of the sports broadcasting rights (in this case) are then not fully determined. Competition, allows for the market forces to determine the true value of the rights but this cannot be achieved through hamstringing incumbents at the expense of promoting other new players in the market.

A classical example, of how ICASA has played a major role in promoting competition can be found in the Telecoms Mobile Industry by creating an enabling environment for small players like Cell C to succeed through various initiatives, and this was not out of adopting a 'non-exclusivity' operating model despite the dominant players like Vodacom and MTN being there.

How then do we address the issue of 'non-exclusivity' (i.e. albatross)?

ICASA must allow any sports broadcaster to have exclusive rights but look at some of the following mitigating options for the various Groups in the final regulation, namely

1. Allow for the **adoption of the appropriate latest technologies or mechanisms** that enables the public to switch from one sports broadcaster to another, at very minimal costs
2. **Develop a solidarity fund of up to 5% of the total sports rights** for each sporting code towards a pool of funds that can be utilised to purchase sports rights that are of national interest. This can be independently run and managed by an act of parliament through this sport regulation. This pool of fund can be over and above what the 'free to air' broadcaster can provide at its own costs (given the fact that resource allocation for national interest requirements is always smaller than the actual needs).
3. **Delayed live games** for certain games up to set quota limit in a year (for example, 5 games in a year will be 'delayed live games'). This will fall on the footsteps of developmental sports broadcast of at least 2 per annum.

The money generated from the above options will enable the increase of pooled funds, which can also be used to increase the number of broadcasts for developmental sports by both subscription and free-to-air broadcasters.



Birchwood Court, West Wing
43 Montrose Street
Vorna Valley, 1686
Tel (011) 655 7257
Fax (011) 655 7011
E-mail: thami@tenox.co.za
Cell: 083 222 5227
Contact: Thami Xulu

Suite 10
232 Boom Street
Pietermaritzburg, 3201
Tel (033) 342 0765
Fax 086 669 1758
E-mail: njabulo@tenox.co.za
Cell: 072 607 6050
Contact: Njabulo Ndlovu

Reg. No. 2014/072994/21; VAT No. 4270260690; SAIPA Accredited Training Centre (ATC) No. 2526

• **Accounting** • **Independent Review** • **Tax** • **Advisory** • **Business Support** • **Valuations**

In conclusion, we have seen the exponential uptake of subscription broadcast services by ordinary people in township, rural areas, etc. because of the value proposition and the service offerings provided, which has enabled more viewing choice. This has, however, come at a premium price, which can only be curtailed into a competitive pricing structure when more selection & broadcasting choices for consumers are available and realised, but not through a 'non-exclusivity' operating model as it will stymie the true value of the sports broadcasting rights.

I trust that these practical options and inputs will be considered to enable ICASA modify the currently proposed sports broadcasting regulations. We appreciate the interest you have on us as the public but this must not be at the expense of addressing the public interest element but end up creating a value-creation issue since we will all be losers in the end.

If there are any queries or clarifications, please don't hesitate to contact me on the contact details listed on our letterhead.

Yours Faithfully

A handwritten signature in black ink, appearing to read "TX", enclosed in a rectangular box.

Thami Xulu ACMA, CGMA
Managing Director
Tenox Management Consultancy Inc.