

SOS: Support Public Broadcasting Coalition

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SOS CALLS FOR THE IMMEDIATE WITHDRAWAL OF THE ICASA AMENDMENT BILL

The SOS Coalition is deeply concerned by the latest actions by the Minister of the Department of Communication, Dina Pule, to raise the ICASA amendment bill from the dead. The coalition sees this as contradictory to the Minister's promise of a thorough ICT policy review process which was to have been finalised by the end of 2012.

According to the Minister the aim of the draft Bill is "to provide for further clarity on the powers and duties of the Authority; to provide for the establishment of the Complaints and Compliance Commission to replace the Complaints and Compliance Committee; to confirm the use of electronic communications networks and services for the purpose of electronic transactions; to introduce mechanisms to ensure the accountability of committees and the Authority including of councillors; and to provide for matters connected therewith."

Clearly the aim of the bill is not to introduce minor technical changes; rather it seeks to fundamentally alter the role, powers and operations of the regulator. As such it flies in the face of and deeply undermines the promised ICT policy review process

SOS therefore calls for its immediate withdrawal and that the Minister focus her attentions on the long-overdue ICT policy review.

The Coalition sees this amendment bill as an attempt to undermine the independence of a chapter nine institution.

While we can share some of the DOC's frustrations regarding ICASA, what's needed is the strengthening of the regulator, not it's undermining or it's transformation into a conveyor belt for the whims of ministerial policy.

The coalition is of the view that a number of suggestions in the Bill are both unconstitutional and fly in the face of international regulatory best practice, and are therefore unacceptable. These include provisions that mean that:

- ICASA has to act directly in accordance with Ministerial policy directions and undefined "sector policy"
- the Minister has powers to appoint the new Complaints and Compliance Commission – an absolutely key function of the day to day work of a regulator; and
- Parliament's powers in respect of the appointment of ICASA counsellors are reduced

These changes represent a significant change to the broadcasting regulatory edifice and are totally out of step with international trends and with our own African Union commitments in respect of independent broadcasting regulation.

The SOS Coalition is dismayed that apart from this clearly unconstitutional Bill (and that of the similarly unconstitutional ECA Amendment Bill tabled recently), the Minister has done nothing that shows any progress on the ICT policy review. She has not yet announced the members of the ICT Policy Review Panel, despite having received nominations months ago. She has not said anything that shows that her department is getting ready to kick the process off through the issuing of a Green Paper by the end of the year.

Finally, SOS notes that once again the Department, despite introducing very substantive legislative amendments that shift the very nature of independent regulation and broadcasting in the country, has given stakeholders a mere 30 days to comment. The Bill was published on the 23rd of November 2012 and the deadline for written submissions has been set for the 6th of January 2012. This time period is wholly inadequate and will in particular impact on the effective participation of poorer, more marginalised civil society stakeholders.

The Coalition thus urgently requests that the Department of Communication withdraws this bill.

We request that the Minister keeps her promise and focuses on the ICT Policy Review.

The SOS Coalition represents a number of trade unions including COSATU, COSATU affiliates CWU and CWUSA, FEDUSA, BEMAWU and MWASA; independent film and TV production sector organisations including the South African Screen Federation (SASFED); and a host of NGOs and CBOs including the Freedom of Expression Institute (FXI), Media Monitoring Africa (MMA), and the Media Institute of Southern Africa (MISA-SA); as well as a number of academics and freedom of expression activists.

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