

**Broadcasting Regulatory Review
ICASA Conference
20-21 February 2012**

Submission by the SOS Coalition:
Support Public Broadcasting
&
South African Screen Federation

What is needed of the Broadcasting Regulatory Environment

- SOS: Support Public Broadcasting Coalition
- Coalition of: unions (including Cosatu), NGOs engaged in freedom of expression advocacy, organisations in the independent production sector, individuals
- Broadcasting is not in a healthy state:
 - Public broadcaster has been in crisis for five years and has yet to stabilise
 - Community broadcasters are struggling
 - Insufficient competition in commercial broadcasting sector
 - Inability by ICASA to monitor and ensure compliance with laws, regulations and licence conditions, to the detriment of key policy goals ie: content diversity, local content and independent production

What is needed of the Broadcasting Regulatory Environment

- What is needed?
- Transparent, participative DOC-driven Broadcasting Policy Review:
 - new Broadcasting White Paper
 - policy for all three tiers of broadcasting:
 - public, community and commercial
 - Challenges/opportunities of digital broadcasting
 - An independent ICASA with sufficient capacity and funding to perform its duties

What is needed of the Broadcasting Regulatory Environment

- Amendments to Broadcasting Legislation (Parliament):
 - New SABC Act or amendments to Broadcasting Act such that it becomes an SABC Act
 - Focusing on solving the crises:
 - Board/senior management appointments/removals processes
 - Update SABC Charter
 - Funding for public broadcasting

What is needed of the Broadcasting Regulatory Environment

- Amendments to Broadcasting Legislation (Parliament):
 - Amendments to the Electronic Communications Act
 - To fix the problems caused by the lack of definitions of “control” in commercial broadcasting context
 - To update BBBEE and ownership and control provisions of the ECA to ensure diversity of ownership and content
 - Appropriate provisions to support community broadcasting:
 - Community of interest and geographic communities

What is needed of the Broadcasting Regulatory Environment

- Amendments to Broadcasting Legislation (Parliament):
 - Amendments to the ICASA Act
 - To bolster ICASA's independence
 - To further empower ICASA through ensuring sufficient funding and human resources capacity
 - To require ICASA to monitor compliance with laws, regulations and licence conditions and to report thereon to Parliament and to the sector, particularly re: local content, independent production

What is needed of the Broadcasting Regulatory Environment

- Updating Broadcasting Regulatory Environment (Icasa):
 - Updating micro policy ie ICASA position papers
 - Updating regulations to ensure:
 - Compliance with new policy
 - Compliance with new/amended legislation
 - Regulatory certainty by rationalising regulations to avoid overlap, contradictory provisions etc
 - Revamping ICASA to ensure that it is able to perform its primary role ie monitoring compliance with broadcasting laws, regulations and licence conditions

Conclusion

- ICASA ought not to engage in a regulatory review until:
 - there is a new White Paper ie new national broadcasting policy
 - There is new legislation ie new SABC Act, amendments to the ECA and to the ICASA Act
- Danger:
 - Developing micro-policy in a policy vacuum
 - Developing regulations when necessary legislative amendments have not been enacted
 - Adding to regulatory complexity instead of clarifying, simplifying and overhauling regulatory environment
- ICASA must also ensure that it rectifies the crisis in monitoring and enforcement which ICASA has failed to do effectively: local content, independent production etc.

Thank You