

**GOVERNMENT GAZETTE NO
32420**

**PUBLIC SERVICE
BROADCASTING DISCUSSION
PAPER**

SABC Submission

04 September 2009

1. Introduction

In Notice No. 755 published in Government Gazette No. 32420 dated 20 July 2009, the Department of Communications (“DOC”) published its “*Public Service Broadcasting: Repositioning Broadcasting for National Development*” Discussion Paper (“the Discussion Paper”). Written comments were invited to be submitted by 20 August 2009. The deadline was subsequently extended to the 31 August 2009.

The Chairperson of the Interim Board of the SABC on behalf of the Corporation sent a letter to the Minister of Communications on xxxxxx requesting that the deadline be extended for at least another three months, in order to ensure that the SABC could make a meaningful contribution to the debate on the role of public broadcasting. It was emphasised that the core responsibility of the Interim Board was to stabilise the Corporation, and that it would be premature to, for example, determine the financial needs of the SABC in relation to its mandate prior to this process being completed.

The SABC was subsequently informed that it could make its submission by the 4th September 2009. Given this still limited deadline, the SABC has not been able to develop a comprehensive submission, but instead has dealt primarily with issues around process and principles.

2. Scope

The Discussion Paper indicates that the objective of the review is to develop “a comprehensive approach to the policy framework for public service broadcasting in South Africa” as part of “developing an overarching policy framework for the broadcasting industry”¹.

It suggests that there are two core underlying issues necessitating such review:

The financial and management crises that have recently plagued the SABC², and

¹ Discussion Paper, Page vii

² Discussion Paper, Foreword by the Minister, Page vi

The changing broadcasting environment due to, amongst other things, convergence and the migration from analogue to digital terrestrial television.³

The SABC welcomes Government's announcement of its intention to review its policies for broadcasting in order to ensure that all South Africans needs continue to be met in a multi-channel, multi-platform environment. We however submit that the two imperatives outlined in 2.2 above are distinct and should not be conflated.

As regards the need to address the crises that have recently afflicted the SABC, the Interim Board is of the preliminary view that these are primarily related to poor corporate governance and ineffective and inefficient financial management. Whilst minor amendments to existing legislation and/or the Articles of Association might assist in strengthening governance and/or financial management, the challenges can be resolved within the existing broadcasting policy framework. Both the Interim Board and the Task Team established by the Minister to advise him will undoubtedly identify such amendments, if any, in fulfilling their respective responsibilities.

We therefore submit that the need to develop effective mechanisms to resolve the challenges facing the SABC immediately should not in any way limit the scope of the review of the entire broadcasting framework.

A review of the broadcasting framework, and the public broadcaster's role within this must be based on a thorough evaluation of the overall existing Government policy encapsulated in the White Paper on Broadcasting Policy, published in June 1998. The focus should be on the continued relevance of these policies in relation to public needs, given technological advances. Whilst it is critical in this process to review the policies relating to public broadcasting in South Africa, these cannot be assessed in isolation from the overall policy and regulatory framework. Such a review should, moreover, be framed within the context of other relevant Government policy, including the Broadcasting Digital Migration Policy published in September 2008.

Unfortunately the Discussion Document does not holistically address these broader policy issues, but is confined primarily to issues related to public broadcasting.

³ Discussion Paper, Foreword by the Minister, Page vi and Section 1.1: Background

In summary therefore, and in consideration of the above, the SABC suggests that the DOC separate the two processes:

Any legislative amendments to the current Broadcasting Act (No 4 of 1999) and/or amendments to the Articles of Association should focus on addressing shortcomings and oversights that become evident through the turnaround and stabilisation efforts currently being undertaken by the Ministry of Communications and the Interim Board. These should not be linked to the holistic review of all policies related to broadcasting.

The Ministry and the Department of Communications should separately commence with an in depth and comprehensive review of the entire broadcasting policy framework. Such a review should focus on how to ensure broadcasting as a whole is responsive to public needs given technological advancement, and should be based on the White Paper for Broadcasting. The process for such review should be determined by the need to involve the South African public and specific stakeholders in determining the objectives, values and principles that should underpin any policy for broadcasting in the country, and identifying the best means to achieve these.

3. Amendments to Broadcasting Act

As highlighted above, the SABC believes that amendments to the Broadcasting Act and/or Articles of Association can be made prior to the review of the existing broadcasting framework and policies.

The Interim Board in fulfilling its responsibilities relating to the stabilisation of the SABC may identify several amendments that could assist in strengthening corporate governance and/or financial and other management at the SABC. Such additional proposed amendments would form part of any exit report from the Board.

The SABC has however previously informed the DOC of proposed amendments that would we believe strengthen the Corporation's capacity to collect television licence fees. These are identified below for ease of reference:

The SABC proposes that, the definition of television set in the Broadcasting Act is amended to clearly stipulate that this includes all television receiving equipment, including, for example, decoders, set-top boxes and mobile phones.

It is proposed that the following definition be inserted into the Act: **“television set”** means any device or apparatus designed or adapted by technological or other means to be capable of receiving transmissions broadcast by a television broadcasting service, whether on a free-to-air or a subscription basis”.

It is further proposed that Sections 27(1) and (2) be amended to extend reporting obligations to include:

Manufacturers and importers of television sets – *record to be kept of which retailers / businesses have been supplied with TV sets.*

Electronic communications service licensees (mobile phone operators) – *to maintain subscriber base of mobile TV users.*

Subscription broadcasting licensees (pay-TV operators) – *to ensure that subscribers to pay-TV services have valid television licences at the time of subscribing and any time thereafter.*

Short-term insurers – *claims for replacement of TV sets to be processed only if an individual is in possession of a valid television licence.*

Businesses repairing television sets – *valid TV licence to be a requirement before repairing.*

Businesses installing aerial / satellite equipment - *valid television licence to be a requirement before installing.*

The SABC has further previously made suggestions to the DOC aimed at increasing the actual revenue it receives from licence fees. In this regard, it has been proposed that the TV Licences Unit be registered as a separate legal entity (*Section 21* company). This would ensure that the Corporation is able to gain efficiencies with regard to the liability for payment of Income Tax (29%). As a result, a larger portion of revenue would be retained for PSB funding.

In addition the Corporation proposes that TV licence fees be exempted from VAT or receive a “zero-rated” VAT ruling. This would be in line with international best practices where licence fees are excluded from VAT.

Finally, the SABC would like to again reiterate previous proposals it has made aimed at providing poorer households with relief, whilst not compromising revenue from licence fees. Two different approaches in this regard could be considered:

Government subsidy for concessionary TV licence holders

The *TV Licences* database currently reflects **819 486** households with concessionary licences. Such households pay R70.00 per annum, which the SABC “*subsidises*” by R180.00. Should Government compensate the SABC for the shortfall, the SABC would receive an additional **R148m** in cash. This model provides for shared SABC/Government responsibility, not just a “hand-out” to the SABC.

Government subsidy for LSM 1-3 households

AMPS data indicates that there are 2.85m LSM 1-3 households of which 927 000 have television sets. In some instances the poorer households (LSM 1–3) do not make any contribution to television licence revenues at all. It is proposed that Government subsidises LSM 1-3 households (payment of their licence fees).

4. Review of Broadcasting Policy

As stated in the introductory sections of this submission, the SABC proposes that the DOC separately begin a review of all existing policies relating to broadcasting. It is our view that the Discussion Paper, whilst raising important questions, does not holistically address all relevant issues, and therefore will not achieve its stated objectives. Such review we propose should rather be based on the White Paper for Broadcasting released in 1998.

We further submit that it is essential in conducting such review that the DOC assess the South African public's broadcasting needs, and get consensus on the values and principles which should underpin the broadcasting policy and system.

It is important that such a process is inclusive – and that it is based on thorough assessment and analysis of what, if any, obstacles have hampered the achievement of the original objectives outlined in the White Paper and Broadcasting Act in order to address these. It must furthermore consider how best agreed upon objectives can be met in the future, given technological advances.

5. Conclusion

The SABC again wishes to thank the Ministry and Department of Communications for affording it the opportunity to contribute towards the process of reviewing the framework for broadcasting in South Africa. We look forward to engaging on this further in order to ensure that the broadcasting policy in this country does holistically meet the needs of all South Africans both now and in the future.