



NAB
National Association of Broadcasters

**THE NATIONAL ASSOCIATION OF BROADCASTERS WRITTEN SUBMISSION TO
THE DEPARTMENT OF COMMUNICATIONS' DRAFT COMMUNITY
BROADCASTING SUPPORT SCHEME**

30 September 2015

1. Introduction

1.1. The National Association of Broadcasters (“the NAB”) is the leading representative of South Africa’s broadcasting industry, established over 20 years ago. The NAB aims to further the interests of the broadcasting industry in South Africa, by contributing to its development. The current NAB members are:

- 1.1.1. the three television services and 19 radio services of the SABC;
- 1.1.2. licensed commercial radio broadcasters (including media groups: Primedia, Kagiso Media, Tsiya Group, AME, MSG Afrika, Times Media Group, Classic FM, Kaya FM, YFM and Smile FM);
- 1.1.3. licensed commercial television broadcasters (e.tv, Multichoice, M-Net, StarSat);
- 1.1.4. a host of community radio broadcasters and community television broadcaster, Faith Terrestrial;
- 1.1.5. both the licensed broadcast signal distributor and the selective and preferential broadcast signal distributors, Sentech and Orbicom;
- 1.1.6. Associate members, including training institutions.

1.2. On 1 July the Department of Communications, (“the DoC”) published the draft Community Broadcasting Support Scheme (“the draft Scheme”) for public comment, and the closing date for written comments is 30 September 2015. The NAB welcomes the opportunity to make its written submission, and welcomes the publication of the much anticipated draft Scheme. The majority of the NAB community broadcasting members are community of interest broadcasters, and are encouraged by the DoC’s continued support for the community broadcasting sector. Based on the principles laid down by the Electronic Communications Act 36 of 2005 (“the ECA”) as amended, as well as the Broadcasting Act 4 of 1999 (“the BA”), NAB community broadcasting members strive to:

- 1.2.1. Ensure that their broadcasting services are fully non-profit entities carried on for non-profit purposes;
- 1.2.2. Ensure that the broadcasting services serves a particular community;
- 1.2.3. Encourage members of the community served by it participate in the selection and provision of broadcast programming, and;
- 1.2.4. Ensure that the broadcasting services are funded by donations, grants, sponsorships or advertising or membership fees.

2. Legislative and Policy landscape

2.1. Electronic Communications Act

2.1.1. The Community broadcasting licensing regime prior to the enactment of the ECA was such that the Authority could receive community broadcasting licence applications twice in a year. Even though there was certainty and clarity on when community broadcasting service license applications could be received, the application process was tedious and unwieldy. With its enactment in 2006, the ECA attempted to simplify this reprocess, and ease entry barriers for the community broadcasting sector. Section 16(2) of the ECA provides that *“registration of class licences may be submitted at any time in the manner prescribed by the Authority”*. Regrettably this provision has over the years yielded some undesired consequences for the Authority. As envisaged by section 16(2) of the ECA, the authority has not prescribed regulations prescribing the manner in which registrations may be submitted. This has as a result opened up the Authority to receiving a plethora of registrations, and arguably due to a lack of capacity, the Authority has in most instances, granted the registrations.

2.1.2. Though the draft Scheme indicates that the prevalence of over 187 (and now reported to be 255 as of January 2015) community stations throughout the country can be attributed to the support provided¹, the draft Scheme fails to acknowledge that not all these stations are sustainable and are not on air, for various reasons. The Authority has risen to the occasion, as it recently published draft Processes and Procedures Regulations² which seek to:

2.1.2.1. Empower ICASA to restrict the receipt of class community broadcasting service registrations to February and October;

2.1.2.2. Empower ICASA to publish a notice inviting registrations for class broadcasting services in provinces/areas which the authority deems fit.

¹ At page III of the Draft Scheme.

² Processes and Procedures Regulations for Class Licences published in government gazette 38917 on 26 June 2015.

2.1.3. Though these draft Regulations have not yet been finalised, the NAB is encouraged by the interventions introduced by the Authority, and believes that given spectrum scarcity, this measure will help ease the administrative burden ICASA is faced with, and consequently assist the DoC in effectively dispensing the support scheme to deserving community broadcasting service licensees. ICASA has also recently issued a Moratorium in respect of Class Community Sound Broadcasting Service and Network Licences.³

2.2. ICT Policy Review

2.2.1. While the DoC envisages that the draft Scheme will be revised after three years, then after every five years, hence responding to any changes in the sector, the draft Scheme nonetheless ignores the recommendations of the ICT Policy Review which among others, recommend that:

2.2.1.1. the licensing framework for community broadcasting must be amended to ensure ICASA can effectively oversee the licensing and monitoring of such services;

2.2.1.2. individual community television licenses must be phased out and instead a framework for open access television should be developed;

2.2.1.3. measures for the improvement of funding and sustainability to improve community broadcasting should be considered. This must include royalty payments, NPO tax status, and a review of MDDA funding, among others.

2.2.2. The draft Scheme further provides that *“while the scheme would have liked to provide for community broadcasting in the new multimedia environment characterised by convergence and digitisation it would be difficult to do so until the on-going ICT Policy review process is completed which is set to outline and envision broadcasting including community broadcasting for the future. Therefore the support for community broadcasting in future will be revised once the new policy emanating from the current policy review is complete”*⁴

2.2.3. The NAB advocates for a forward looking and future proof scheme. The country is gearing up for digital migration, and the publication of the Moratorium for

³ Published in Government Gazette 39226 of 22 September 2015.

⁴ At page 5 of the draft Scheme.

Community Television by ICASA in 2010⁵ bears testimony to the fact that the Policy maker ought to be putting measures in place to allow for community broadcasting services to play in the digital space. Furthermore, and in our view, the draft Scheme overlooks a number of critical issues which have paved ways for the broadcasting sector as a whole to prepare for the multimedia digital dispensation, and these are:

2.2.3.1. The publication of the Broadcasting Digital Migration Policy;⁶

2.2.3.2. The ICASA Digital Migration Regulations, which make provision for the licencing of Community television broadcasting services on mux 1, occupying 15% of the mux;

2.2.3.3. The realities of digital audio broadcasting – NAB members are currently conducting DAB+ and DRM trials. At this point, due to capacity issues and budgetary constraints, four community sound broadcasting services⁷ are currently participating in the trial.

2.2.4. While the NAB is alive to the DoC's budgetary constraints, and the need to ensure that incumbent community broadcasting licensees thrive and are sustainable, the NAB believes that the draft Scheme should not only look to current technologies, but rather seek to encourage and incentivise creativity and innovation in the community broadcasting sector and where possible encourage technology leap-frogging.

3. Objects of the Scheme

3.1. The draft Scheme rightfully points out that the community broadcasting support scheme has never been based on a comprehensive policy. At this stage, principles governing community broadcasting, both radio and television are very sketchy and based on legislation. ICASA in 2004 developed position papers on Community Television⁸, while a position paper on Community Radio was developed in 2006.⁹ Both these position papers are premised on the repealed Independent Broadcasting

⁵ The Moratorium states that ICASA shall not issue any terrestrial licences for Community Television due to spectrum scarcity and shall only do so after the dual illumination process has been concluded.

⁶ Published on 1 March 2015 in government gazette 38583

⁷ Namely Pulpit, Radio Islam Radio Pretoria and Radio Today.

⁸ Community Broadcasting Services Position Paper 30 November 2004.

⁹ Community Sound Broadcasting Policy Position Paper 5 June 2006.

Authority Act 153 of 1993 ("the IBA Act"), and have not been amended to be aligned with the ECA.

3.2. The draft Scheme outlines objectives of the scheme, and further invites more inputs, and poses a question whether the outlined objectives adequately reflect the nature of, and the rationale for the existence of community broadcasting in South Africa.

3.3. The NAB notes the urgency for the Scheme to be finalised, and supports the objectives outlined in the draft Scheme, we would further wish to add the following to the objectives;

3.3.1.the scheme should enable long term sustainability of the community broadcasting sector which should ideally reduce reliance on government support by the sector;

3.3.2.Facilitate the expansion of community broadcasting services, particularly community radio to provide greater access to rural communities.

3.4. On the other hand, the NAB cautions that this process of formulating the support scheme is occurring in a policy vacuum. In order to avoid past failures of the scheme, which according to the DoC's research study (conducted by Pygma), were partly attributable to the lack of an enabling policy framework as well as a lack of proper coordination of the scheme. The DoC as the policy maker should first of all, and without delaying this process, formulate an enabling policy for both radio and television broadcasting services.

4. Nature of the Support

4.1. Community Radio

4.1.1.The draft Scheme indicates that in relation to community radio broadcasting, four areas of subsidy will be focused on:

4.1.1.1.Broadcasting infrastructure;

4.1.1.2.Signal distribution and transmission;

4.1.1.3.Content production;

4.1.1.4.Capacity building.

4.1.2. The NAB in principle supports the proposed areas of support, as these four areas in the main constitute a complete broadcasting value chain. The NAB has the following comments to make with the respective areas of support;

4.1.3. Broadcasting infrastructure

4.1.3.1. The NAB is encouraged to note that in terms of the draft Scheme, areas of infrastructure support will include: two new broadcast studios to newly licensed services, an upgrade of existing services and maintenance of the equipment.¹⁰

4.1.3.2. In order to create a level of accountability and proper up-keep of the infrastructure, the draft Scheme shifts the responsibility to the community broadcaster to maintain, insure and store in safe and secure environments transmission infrastructure.

4.1.3.3. The draft Scheme does not make provision for infrastructure support for those community radio stations that self-provide. These stations depend on donor funding, which in some instances is not fully guaranteed. The NAB believes that infrastructure support, particularly for the upgrade of equipment must also apply to self-providing community radio stations.

4.1.3.4. It is the NAB's further view that greater focus must also be had to rural expansion of community radio, as more often than not rural community stations set up their own towers and transmitters, as Sentech does not have the towers to cover many of the smaller towns.

4.1.3.5. On the principle of eliminating dependence on the scheme, the draft scheme must also cater for training, transfer of installation expertise and technical support for stations provided with equipment.

4.1.3.6. Based on the impoverished nature of some community radio stations, the draft Scheme should also consider whether or not it is viable at

¹⁰ At page 13 of the draft Scheme.

this stage to supply digital mixing desks to community radio stations. Yet again the expertise to install and maintain these is a scarce resource not available to community radio stations, and consideration for good analogue units may be suitable and more cost-effective. This is premised on the fact that the draft Scheme envisages a three year review of the scheme.

4.1.4. Signal distribution and transmission

- 4.1.4.1. From the NAB point of view, in providing a signal distribution subsidy, the draft Scheme should do so equitably. The NAB believes that the determining factor should not only be the geographic location of a station (i.e. rural vs. urban), but other factors such as community density (community members per square km) and socio-economic factors, should also play a role.
- 4.1.4.2. Furthermore, the draft Scheme ignores the fact that not all community radio broadcasters utilise Sentech as a signal distributor. Due to high set up and transmission costs, certain community radio stations have elected to self-provide signal distribution. The draft Scheme does acknowledge that initially the scheme did not accommodate self-providing community radio stations,¹¹ however it fails to provide a subsidy solution for such stations. In our view, self-providing radio stations should be incentivised for having survived, and remained on air despite the difficulties they face.
- 4.1.4.3. While the draft Scheme acknowledges the right of such stations not to utilise Sentech as a signal distributor, the NAB believes that should a self-providing community radio station decide to migrate to Sentech as a signal distributor, in order to benefit from the subsidised signal distinction costs, the draft Scheme should cover the costs for the roll out of the necessary migration and equipment.
- 4.1.4.4. It would seem that the draft Scheme is specifically focused on FM community radio stations. Inevitably, AM and rural stations have

¹¹ At page 13 of the draft Scheme.

higher operating costs. We would therefore recommend that the signal distribution subsidy applies to AM community radio stations as well. The NAB further recommends that a dedicated budget be allocated to AM community radio stations, and that the subsidy be based on a sliding scale, as not all AM community stations are equal in transmitter size and footprint. The NAB recommends the following sliding scale as a guideline:

- 0.0Kw – 1Kw = 100%
- 1.1Kw – 3Kw = 50%
- 3.1Kw – 5Kw = 30%
- 5.1Kw – 7Kw = 20%
- 7.1Kw – 10Kw = 10%

4.1.4.5. In a nutshell, based on the principles of convergence, and ever escalating signal distribution costs, which according to our members take up the greatest part of the station's expenses, the NAB advocates for an equitable funding scheme that caters for all types of transmission by community broadcasters.

4.1.5. Content production

4.1.5.1. Community broadcasting services have as one of its principles; ensuring that the community served by the station participates in the selection and provision of programmes to be broadcast in the course of the broadcast.

4.1.5.2. Content is critical for the viability of any broadcasting service, and as a result, the NAB is encouraged to note that the draft Scheme is putting resources aside for purposes of content production subsidy, and supports the three models proposed. The proposed formats will support the growth of local content production by the actual community served by the station. The NAB further proposes that the subsidy should encourage and promote programming in local languages, and production in marginalised genres such as children's programming, programming aimed at women and persons with disabilities.

4.1.5.3. On the issue of programme syndication, the draft Scheme indicates that a cap shall be placed on syndicated programming to encourage community developed content. To this end, the DoC is advised to engage ICASA, as ICASA has published draft regulations that seek to limit syndicated programming to 20% of a sound broadcaster's local content quotas.¹² Once finalised, these regulations will have a bearing on the amount of locally produces syndicated programming.

4.1.5.4. The draft Scheme states that funds will be ring-fenced for geographic stations located in rural areas, to cater for mentorship programmes so as to improve the stations' capacity and enhance their skills in content production. While the NAB supports the principle of supporting rural community radio stations, the NAB respectfully submits that the focus should go beyond geographic stations. It would seem the draft Scheme, overlooks community radio stations of interest, and their need for equal support. We would therefore urge the DoC to ensure that content production subsidies including mentorship as envisaged by the draft Scheme be extended to rural community radio stations of interest.

4.1.6. Capacity Building

4.1.6.1. The NAB notes that the draft Scheme is committed to facilitating capacity building initiatives for the community radio sector. It is widely accepted that the community radio sector is a source of job creation, and developing on-air talent as well as technical skills for the commercial and public broadcasting tiers. It is our view that existing public training institutes such as NEMISA remain relevant and have a critical role to play in providing the requisite radio skills. We therefore recommend that well run community radio stations be encouraged to provide mentorships, and establish radio academies to address the skills gap in the sector and assist with job creation in the industry. It is therefore our recommendation that a budget be earmarked for capable community radio stations for this purpose. The DoC should facilitate collaborations with other training institutions and SETAs.

¹² Draft Standard Terms and Conditions Regulations for Class Licences published in government gazette 38920, dated 26 June 2015.

- 4.1.6.2. As observed in the Corporate Governance Indaba in September 2012, the NAB strongly agrees that greater focus still needs to be placed on provision of corporate governance skills, as the lack thereof has led to the demise of most community radio stations. To this end the NAB recommends that specially packaged and affordable training be arranged regionally, to fast-track the training of station board members on the principles of governance and fiduciary duties of boards.
- 4.1.6.3. In this section the draft Scheme questions whether we agree with the Corporate Governance Indaba recommendation that SAMRO fees be included in the support programme. The NAB agrees with this recommendation.
- 4.1.6.4. The NAB is encouraged that the ECA has been amended to exempt community broadcasters from making their Universal Services Fund (“USAF”) contributions, hence easing the financial burden on the community broadcasting sector. NAB community radio members attempt at all cost to comply with the many layers of regulation, ranging from good corporate governance to meeting local content quotas and payment of SAMRO fees. NAB interactions with SAMRO have also revealed that SAMRO is in the process of reviewing its tariff structure, which might potentially escalate the fees. These obligations put a strain on the already meagre resources of the community radio stations. The DOC will on the other hand need to engage SAMRO on administration issues, and modalities of submitting cue sheets by radio stations. With our members’ experience, ensuring accuracy of billings is always problematic. Ideally a blanket fee would be preferred, and currently SAMRO applies a sliding scale.
- 4.1.6.5. On the question whether or not a dedicated media office in Parliament be established, the NAB agrees with this proposal. From our members’ experience Sentech provides live satellite audio feed of the Parliamentary Channel to various community radio stations. We believe this must be utilised by the parliamentary media office to broadcast important and relevant Parliamentary addresses and debates, and assist with programme syndication for community radio stations. We therefore recommend that a

Parliamentary budget be allocated for community radio to broadcast these important events live.

4.2. Community Television

4.2.1. The decision to licence community television broadcasting services by ICASA was in line with the Triple Inquiry Report of 1995. In the Triple Inquiry report the Authority recognised the importance of community television and its intention to licence as many of these as technological and financial capacity permits¹³.

4.2.2. It seems that almost 21 years later, seven community television services have been licenced, some of which started off being licenced on a temporary basis. The lack of policy and regulatory direction with regards to community television broadcasting services is problematic and impacts on the viability and sustainability of the entire three tier broadcasting system in the country.

4.2.3. The draft Scheme makes mention of four categories of community television models, namely private commercial community TV, community TV and community radio TV and provincial community TV¹⁴. This information was obtained by the department during its stakeholder engagements. What is not clear is whether these categories of community television broadcasting services have emerged as a result of business practice, or are in fact recognised in policy. The NAB would as a result require clarity on this in order to provide meaningful input in this regard.

4.2.4. The draft Scheme recognises that the support offering for community radio broadcasting cannot be replicated to the community television broadcasting service, due to the complexities of this service. The draft Scheme therefore commits to providing subsidies to:

4.2.5. Signal distribution;

4.2.6. Content production;

4.2.7. Basic infrastructure.

¹³ ICASA Community Television Broadcasting Services Position Paper dated 30 November 2004, at page 14.

¹⁴ Footnote 15 on page 18 of the draft Scheme.

4.2.8. The NAB believes that given the financial circumstances the Department finds itself, the earmarked areas of support are adequate for the time being. However, the NAB cautions that the draft Scheme might be limiting and stifling innovation and creativity, as the subsidies are only available to free-to-air terrestrial community broadcasting services. Regard should be had to community broadcasting services that have been issued service licences, but due to the moratorium on the licensing of community radio services by ICASA, cannot go live as they have not been granted a spectrum licence. The ICASA DTT Regulations do make allocations for community television on mux 1, but the licensing process has not commenced.

4.3. **Management of the Fund**

4.3.1. Initially the scheme was managed and administered by the DoC. The draft Scheme is exploring alternative management structures, and seeks inputs from stakeholders on the following two options:

4.3.1.1. Increasing capacity within the Department to manage and administer the scheme; or;

4.3.1.2. Transferring some of the areas of support to NEMISA (capacity building), MDDA (programme production), and USAASA (infrastructure).

4.3.2. The NAB supports the second option of directing the respective programmes to the identified entities, as they are specialist entities, and have the necessary expertise. The entity oversight division of the DoC should play the role of receiving and allocating applications received.

4.3.3. The challenge that the NAB foresees with his model however, relates to budgetary allocations to meet the subsidies. The identified entities report to different government departments and Ministers (MDDA reports to the DoC, while NEMISA and USAASA report to the DTSP), hence collaboration and coordination between the two government departments is critical in order to clarify roles and responsibilities as well as funding

4.3.4. In its recommendations on the section dealing with Institutional Arrangements, the National Integrated ICT Policy Review Report observed that the DTSP is conducting a micro study on areas of duplication and possibilities of rationalisation, and has established a committee to specifically focus on this¹⁵. This was against the backdrop of the observation that certain state owned entities are not aligned to specific government department oversight requirements. The NAB is also aware that both the DTSP and the DoC have signed a Memorandum of Understanding (“MoU”) , which seeks to address areas of over-lap. The NAB therefore recommends that the draft Scheme should be guided by the findings of the micro-study and contents of the MoU when designating subsidy obligations to the respective entities.

4.4. **Conclusion**

4.4.1. The NAB once again welcomes the opportunity to make its written submission in the draft Scheme, as this process has long been awaited by the community broadcasting sector.

4.4.2. Since its inception, this is the first time the Department has documented its position on the subsidy scheme, as subsidies were initially administered in an ad-hoc and haphazard fashion. The NAB is therefore confident that the draft Scheme will provide clarity, transparency and certainty to community broadcasting service licensees seeking subsidies.

4.4.3. The NAB once again urges the DoC to expeditiously formulate an enabling policy in which the subsidy scheme can be realised.

4.4.4. The NAB also cautions the DoC from proceeding with any subsidy scheme for community television until there is policy certainty on the types and categories of community television broadcasting.

¹⁵ At page 170 of the ICT policy Review Report.

