



RIGHT2KNOW

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Attention: Members of the ICASA Digital Dividend and Digital Migration Committee
c/o: Ms Refilwe Ramatlo
Per Email: DigitalDividendandDigitalMigrationCommittee@icasa.org.za
CC: Paseka Maleka, PMaleka@icasa.org.za.

30 July 2012

Dear members of the ICASA Digital Dividend and Digital Migration Committee,

Right2Know Campaign's written submission to the Independent Communications Authority of South Africa's revised Draft Digital Terrestrial Television Regulations, Notice No. 532, Government Gazette No. 35508, 10 July 2012.

1. Introduction

- 1.1 As you are probably aware, the Right2Know Campaign was formed in late 2010 in opposition to the Protection of Information Bill (or what is now known as the Protection of State Information Bill – or more popularly the Secrecy Bill). In early 2011 the campaign resolved that the Bill was a symptom of a broader threat to the free flow of information and resolved to broaden its focus to include campaigning for a free and diverse media that can serve the information needs of all living in South Africa.
- 1.2 To this end the Right2Know Campaign is in receipt of the Independent Communications Authority of South Africa's (Icasa's) proposed amendments to the Digital Terrestrial Television regulations, and welcomes the opportunity to make a written submission.

2. Insufficient time and consultation

- 2.1 However, Right2Know also notes that the draft regulations were published on the 10th July, and distributed by the Icasa on the 13th July. The deadline for public comment is 30 July: a mere two and a half weeks after they were distributed. Furthermore, according to Icasa's media release, in view of the urgent need to finalise the regulations, no public hearings will be held.
- 2.2 Right2Know objects to the short period of time given for written submissions, as well as the decision not to hold public hearings. Icasa has noted, correctly so, that the migration process is a complex multi-stakeholder process, but it seems as though the one stakeholder Icasa is not taking into account in the rush

to complete the migration process is the public. As the South African public are the end-users and recipients of Icasa policy in this matter, the critical importance of public participation should not be downplayed.

2.3 This short-sightedness may well backfire on Icasa in future as the public may object to a migration process that it feels it was not fully part of. The lack of consultation benefits technocrats and incumbent organizations who have been directly involved in the process from the start, and disadvantages constituency-based organisations like the Right2Know, which has a sizeable working class support base and which needs to take time to consult and develop bottom-up positions on issues.

2.4 The Right2Know therefore would like to request an extension on the deadline for written submissions in order to test and build greater consensus on the preliminary perspectives presented below.

2.5 The Right2Know also insists that ICASA hold public hearings on the draft regulations.

3. Preliminary responses to the revised Draft Digital Terrestrial Television Regulations, Notice No. 532, Government Gazette No. 35508, 10 July 2012.

3.1 In the light of the limitation identified above the Right2Know welcome this opportunity to share the preliminary response to the DTT Regulations emerging from the Campaign.

On allocation of Multiplexes

3.2 We welcome the Authority's proposal to reassign MDTT2 (the second mobile multiplex) for digital television.

3.3 We are however concerned that the proposed allocation of space across the 3 multiplexes is skewed in favor of commercial broadcasters at the expense of public and community broadcasting.

3.4 The three-tier character of our broadcast environment must be protected and developed. The current draft DTT Regulations are at odds with this defining principle of the post-apartheid broadcasting environment.

3.5 We therefore propose the elimination of the split between public broadcasting services and public commercial services of the SABC services and assignment of the PCBS channel as a PBS channel, which will mean that public broadcasting is assigned just over 30% of total spectrum.

3.6 In addition at least 20 per cent of the spectrum should be allocated to community television. (We note with disdain that only 3.3 percent of spectrum is currently allocated to community television).

3.7 A reallocation of SABCs commercial spectrum to its public non-commercial mandate, as well as providing sufficient spectrum to community broadcasters, will ensure that at least 50% of the available spectrum is reserved for non-commercial use.

On High Definition TV

- 3.8 Further, the regulations should disallow broadcasting in high definition TV (HDTV) unless good cause is shown.
- 3.9 HDTV uses a lot of spectrum, so if broadcasters decide to broadcast in HD, diversity of channels will be reduced.
- 3.10 Few people in South Africa can afford HD-enabled television sets. ICASA should not deprive the country of many channels simply to allow a few to enjoy better picture quality.
- 3.11 While HDTV may be the television standard of the future, that future is some time off and these regulations are likely to be revised once the dual illumination period is over, in which case the issue could be revisited then.

On promotion of local and original content

- 3.12 Local content and original content will be key to driving the take up of digital television.
- 3.13 Right2Know welcomes ICASA's vision for local and original content implicit in the content stipulations in the draft DTT regulations. While current stipulations are very low, they don't allow broadcasters complete discretion to decide what to put on their channels.
- 3.14 ICASA should investigate the feasibility of increasing the percentages of original and local content on digital incentive and new digital channels.

On Sound Broadcasting

- 3.15 We note with concern that an allocation on the multiplex 3 has been made for commercial sound broadcasting while no explicit allocation has been made for community or public sound broadcasting.
- 3.16 Public and community tiers must have equitable access to any sound broadcasting opportunities that the digital migration process unlocks.

4. In conclusion

- 4.1 We note the international experience that commercial competition does not automatically lead to media diversity or the servicing of the information needs of all strata of a population. Media organisations are notoriously susceptible to what has become known as the 'hotelling' effect, where competitors tend to imitate one another's products if there is non-price competition between advertiser-funded media, which can quickly lead to more of the same.
- 4.2 In their current form the draft DTT regulations offer disproportionate opportunities to commercial broadcasters and undermine South Africa's commitment to promoting media diversity through the three tiers of broadcasting. There is a great risk of growing competition with decreasing diversity.

- 4.3 If everyone living in South Africa is to enjoy our right to know, ICASA must ensure both commercial competition as well as a diverse range of non-commercial (Public and community) broadcasting.
- 4.4 We thank you for this opportunity to present our initial perspectives and look forward to an opportunity to elaborate further and share any new or different views that emerge as we continue consultation within the Right2Know Campaign.
- 4.5 We believe that it is imperative that there are wide-ranging public consultations on this matter so that South Africans have an opportunity to understand these issues and contribute to them; and Right2Know would be happy to work with ICASA to ensure this.
- 4.6 We look forward to further engagement at the public hearings that we believe are critical to ensure the success of the DTT migration process.

Regards,

Mark Weinberg
Right2Know Campaign
Media Freedom & Diversity Working Group