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Submission to ICASA on the Draft Code of Good Practice for the Broadcasting Industry

May 2005

Submission by the Media Monitoring Project



Introduction

The Media Monitoring Project (MMP) welcomes the opportunity to comment on the Draft Code of Good Practice for the Broadcasting Industry for the provision of broadcasting services to people with disabilities. While the MMP regards the development of the draft guidelines, in preparation for the Section 28 Inquiry to be held by the Independent Communications Authority of South Africa (ICASA), as a positive development, there are a few areas that require further clarification and/or amplification.

Points of Agreement

The MMP is in general agreement on the key principles outlined in the envisaged code, as they relate to:

- a) Diversity and the concurrent need for broadcasters to develop alternative mechanisms in order to cater for the needs of all sectors of the South African society, including those with disabilities;
- b) Easily accessible and timely availability of information for all people in South Africa, including those with disabilities;
- c) The creation of greater awareness surrounding the need for the inclusion of more people with disabilities in the staff complement of broadcasters and of issues of disability amongst broadcasters' employees;
- d) The dissemination of appropriate information to and engagement with people with disabilities on their particular experiences in accessing broadcast information, as well as the types of information that they require;
- e) The dedication of resources towards keeping audiences with disabilities aware of new developments in technologies, products, or services to their advantage;
- f) The need for proactive efforts to ensure the inclusion of people with disabilities in all programme genres, and as interviewers, presenters, actors, and experts;
- g) The recognition that the media has a responsibility to challenge erroneous and stereotypical representations of people with disabilities. The MMP's research has found that people with disabilities are often represented in the media as helpless, disempowered victims, as heroes, or as somehow "special". The tendency to "other" people with disabilities in the media continues to be a major feature of media coverage.



Legal enforcement

One of the MMP's key concerns with the Draft Code of Good Practice is that it neglects to mention how legal enforcement of the code will be ensured. As explained in the draft, the code is to be understood as one component of broadcasters' social responsibility obligations, rather than as a separate code that may be legally enforceable. According to the draft:

The code does not seek to impose any legal obligations on broadcasting licensees, but serves to provide guidelines on the approach that should be adopted by broadcasting licensees in providing services to disabled persons, who form part of the public served by the licensee (Draft Code of Good Practice for the Broadcasting Industry, 2005, p. 2).

No mention is forthcoming of the possible sanctions, if any, that would result from the failure of the broadcasters to adhere to the principles contained in the code. It is understood that the Code of Good Practice is to form a considerable basis of the Section 28 Inquiry, set to take place later in 2005. This would provide the opportunity for the code to be given legal status by being included in broadcasters' licence conditions.

In addition to there being no sanctions stipulated in the draft, unless all broadcasters and members of the telecommunications industry incorporate the code, there would appear to be little incentive on behalf of the broadcast media and the telecommunications sector to adhere to the code.

Application

The precise aims and intentions of the code need to be clarified. While the proposed actions contained within the draft code are admirable, there are questions as to the practical applicability of the measures outlined. There is no doubt that the code is envisaged to make a positive impact on the operation of the country's broadcasters and telecommunications industry. If the code is to be legally enforceable, it will require measurable and positive verifiable indicators. If, however, the code is intended to serve only as guidelines, then it is submitted that broad general principles comprise the code's content.

Ideally, if the code is to be legally enforceable at a later stage, the broadcasters and telecommunications industry are to amend their practices in accordance with the requirements of the code. If the code were to serve only as a general guiding principle, then it would make sense for it not to contain stipulations on human resources, employment, and programming requirements.



Isolation of people with disabilities

Of further concern is the apparent isolation of the needs of people with disabilities compared to the needs of other marginalised and disaffected constituents, such as children, women, people living with HIV/AIDS, and challenges of race and racism. This is not to suggest that there should not be special provisions for people with disabilities in terms of policy and representation in the broadcasting industry, but rather that the other social groups mentioned above are equally deserving of similar sets of standards and guidelines. It is puzzling as to why a Code of Good Practice for the broadcasting industry has only been formulated for people with disabilities, while similar codes have not yet been conceived to address race and racism, or children, women, and people living with HIV/AIDS.

The MMP understands that following the development of the Code of Good Practice, ICASA is to hold a Section 28 Inquiry to address regulations related to people with disabilities, women, children, and, it is hoped, race and racism and people living with HIV/AIDS. Similarly, such concerns are applicable within the context of the public interest mandate relating to access, diversity, and equality, as identified by the Triple Inquiry Report. It could be expected that in similar vein to the Integrated National Disability Strategy, national strategies would be formulated relating to women, HIV/AIDS, race, and children, and the broadcast media and telecommunications sector.

The MMP would, therefore, like to suggest two alternatives. Firstly, rather than having individual codes for people with disabilities, women, children, race and racism, and people living with HIV/AIDS, the MMP submits that a single Code of Good Practice for the Broadcasting and Telecommunications Industry be developed. This overarching code would apply to each of the sectors of society mentioned above, including but not limited to, people with disabilities. Alternatively, the MMP submits that these critical and often marginalised areas of society could be addressed by revising the current Broadcasters' Code of Conduct. This alternative would have the added benefit of enabling the Authority to address these areas within the operations and mechanisms of the Broadcasting Complaints Commission of South Africa (BCCSA), as well as the Broadcast Monitoring Complaints Commission (BMCC). Following the recent BCCSA conference, it would appear that there is dire need for transformation in these areas.

Telecommunications

An important area that needs to be included in the Draft Code of Good Practice is the recognition of ICASA as the regulatory authority for both the broadcast and the telecommunications industries in South Africa. The Draft Code of Good Practice would seem to be largely limited in application to the broadcasting sector, while neglecting the significant challenges that face the telecommunications industry with respect to people with disabilities. As ICASA is mandated to serve as the regulator



of both the broadcasting and telecommunications sectors, it is reasonable to expect that the code be applicable to both of these sectors.

While many of the provisions outlined in the draft document are of general applicability across the two sectors, it is also clear that the telecommunications sector presents a number of unique challenges that need to be addressed. Some suggestions for the implementation of the code, such as those relating to increased access and higher levels of employment of people with disabilities, can be made across both the broadcasting and telecommunications sectors. The telecommunications sector, however, presents its own set of challenges. For example, mobile phone usage is currently limited in terms of accessibility, particularly to blind and sight-impaired users, to whom mobile phone keypads and menus may be inaccessible, as they fail to provide touch-friendly alternatives. The MMP would, therefore, like to suggest that the Code of Good Practice include provisions relating to increasing the role of voice activation for mobile phones, and for the mobile phone industry to develop a brail keypad, or keypad with raised numbering.

The MMP also submits that the code include additional principles and standards that are specifically related to the telecommunications industry. Such principles may be determined by the industry together with the Authority.

Conclusion

In conclusion, the MMP would like to thank the Authority for the opportunity to make a contribution towards the development of a more accessible, diverse, and human rights-centred broadcast media and telecommunications sector in South Africa. The Draft Code of Good Practice is to be viewed as an extremely positive development in providing people with disabilities with greater opportunities to see their lives reflected on and to play a greater role in setting the agenda of the broadcast media and telecommunications sector. However, the successful implementation of the code requires commitment from both ICASA and the broadcast media and telecommunications sector to adhere to the key principles outlined in the code. While the Code of Good Practice on the provision of broadcasting services to people with disabilities is to be welcomed, it is also suggested that either the code as it currently stands be incorporated into a single overarching Code of Good Practice, which includes provisions for children, race, gender, and HIV/AIDS, or that the Authority revises the current Broadcasters' Code of Conduct. Not only would this enable the inclusion of key sectors of society in the Broadcasters' Code of Conduct, but would enable BCCSA processes to be reviewed. Should this be the case, the MMP submits that alternative code of conduct for the telecommunications industry be developed. The MMP looks forward to participating in the Section 28 Inquiry, and would be happy to work with the Authority in taking this process forward.



Should any further clarification or information be required, please do not hesitate to contact the MMP on the numbers provided.

Yours sincerely

William Bird
Director