

SUMMARY OF THE PUBLIC SERVICE BROADCASTING BILL, CHARTER OF THE SABC AND THE CHARTER OF COMMUNITY BROADCASTING SERVICES, 2009

Introduction

SOS: Supporting Public Broadcasting Coalition and the NCRF have developed this document which summarises the proposed Bill to enable community radio and civil society organisations make submissions to the DoC.

The resource pack to assist with submissions consists of a Critical Issues document which raises some of the critical points, this summarised version of the Bill, a legal opinion and a short audio recording.

A full version of the proposed Bill can be found on: www.doc.gov.za

The Public Service Broadcasting Bill, 2009

Some of the main proposals of the Bill are:

- To align public broadcasting – including community broadcasting – to the developmental state.
- Proposes that public broadcasting be the responsibility of all tiers of broadcasting – public, commercial and community.
- To do away with television license fees and replace it with a tax on income – each person pays 1% of their annual income as a tax for public broadcasting
- To establish the Public Service Broadcast Fund as a central fund which will support SABC, community broadcasters, Sentech, content;
- To create an International Broadcasting Services Division within the SABC
- To spell out the role of the Minister in respect of public broadcasting;
- To provide Charters for the SABC and community broadcasting services;
- To create a competitive local content industry and creates a Local Content Advisory Body to achieve this.
- To ensure that everyone has access to broadcasting services and benefits from broadcasting.
- Contribute to democracy, development of society, gender equality, nation building, provision of education and strengthening the cultural, political, economic, spiritual and moral fibre of society.
- Contribute to a better Africa

The Public Service Broadcasting Fund

- The Bill proposes the setting up of a Public Service Broadcasting Fund (PSB Fund) which will be funded through:
 - Personal income tax –1% of the total annual income / annual incomes per person/s
 - Money from Parliament;
 - Contributions from broadcast services licenses;¹
 - Contributions from business; and
 - Money owed to the PSB Fund from other sources
- The PSB Fund should be managed by the Media Development and Diversity Agency (MDDA)
- The money in the PSB Fund must be used only for:
 - The public service division of the SABC – including regional television and international broadcasting services;
 - Content development;
 - Community broadcasting;
 - Signal distribution activities by Sentech to ensure universal access – i.e. Sentech can only get money from the Broadcast Fund to activities related to ensuring universal access
 - The Broadcasting and Signal Distribution Museum;
 - Commercial broadcasters who want to undertake public service broadcasting
 - For any other public service broadcasting uses that the Minister determines in consultation with the Minister of Finance;
- The MDDA must develop criteria for allocating PSB Funds and the Minister will approve these criteria in consultation with the Minister of Finance;
- Those who receive funding from the PSB Fund need to account in terms of the Public Finance Management Act (PFMA) and general Treasury regulations.
- The priority for funding from the PSB Fund:
 1. Public broadcasting services, including regional services;
 2. Content development;
 3. Community broadcasting services; and
 4. Signal distribution by a common carrier

¹ In terms of Section 89(3) of the Electronic Communications Act of 2005

Chapter 5: Public Broadcasting Services: The SABC

- The SABC exists to serve the public interest.
- The SABC must consist of three separate operational divisions:
 - **A public service division:**
 - ❖ Makes services available in all official languages and have high quality in all the languages
 - ❖ Reflects the unity and diverse cultural and multi-lingual nature of South Africa
 - ❖ Provides fair, unbiased, impartial, balanced and independent² news and public affairs programmes of high journalistic standards as well as fair and unbiased coverage,
 - ❖ Has educational programmes - including, amongst others, human rights, health, early childhood development, agriculture, culture, religion, justice, and commerce and contribute to a shared South African consciousness and culture;
 - ❖ Enriches our cultural heritage by supporting traditional and contemporary artists;
 - ❖ Offers a broad range of services targeting children, women, the youth and the disabled;
 - ❖ Include programmes made by the SABC itself and those produced by independent producers;
 - ❖ Include national sports programmes as well as developmental and minority sports;
 - ❖ It will also include additional services for education, health, youth, SMME's, Parliamentary services and Governmental and interactive services
 - ❖ It will have regional services that will broadcast in the official languages relevant for the region; will prioritise news reporting and current affairs of the relevant region and will reflect regional diversity;
 - ❖ The regional services can also get funding from provincial government through the provincial legislatures;
 - ❖ Funding for the public service divisions of the SABC, including regional television services, will be from
 - the PSB Fund;
 - Subsidies from the commercial division;
 - Grants, non-commercial sponsorship and donations; and
 - Advertising and commercial sponsorship

² Independent from both Government and commercial interests

- **A commercial service division:**
 - ❖ The purpose of the commercial division is to make money and that money should be used for the public service division.
 - ❖ It must comply with ICASA's policy and regulations for commercial broadcasters.
 - ❖ It must comply with the values of public broadcasting in its programmes and services.
 - ❖ It must commission a significant amount of programming from independent producers.

- **An international broadcast division:**
 - ❖ Contribute to a diversity of views and content on the African continent, promotes regional integration;
 - ❖ Promote South Africa's foreign policy and should be subject to the country's foreign policy related to, amongst others, Africa's development, reconstruction, peace and stability.
 - ❖ Commission a fair amount of programming from various African countries in support of developing and promoting the African content industry.
 - ❖ Comply with the values of international broadcasting services in its programmes and services.
 - ❖ It will be funded by the PSB Fund, state grants and the Minister will determine the minimum revenue to be generated from advertising and sponsorships, grants and donations.

Governance of the SABC

- The Board of the SABC controls the Corporation.
- The Board consists of 12 people who are appointed on a non-executive basis. They must be
 - Suitably qualified and experienced - in broadcast policy and technology; broadcasting regulation, media law, business practice and finance, marketing, journalism, entertainment, education, social and labour issues;
 - Be committed to fairness, freedom of expression, the right of the public to be informed, openness and accountability;
 - Represent a broad cross-section of the population and different regions of the country;
 - Be nominated through a public process with transparency and openness and the short-list must be published.

- The Chairperson and Deputy Chairperson must be non-executive members
- The quorum of the Board will be nine members and must include the Chairperson or the Deputy Chairperson.
- Every member of the Board must take an oath or affirmation committing him / her to fairness; freedom of expression, openness and accountability, serving the public interest; and, upholding and protecting the Charter and other laws of the country, including the Constitution

Chapter 6: Community Broadcasting Services

- Contribute to community development by:
 - Providing using local languages, culture and religion to educate, inform and entertain;
 - Reflecting the community's language and culture in content and programming and strengthening cultural and linguistic diversity rights and access;
 - Providing development content and serving as a vehicle for community development;
 - Promote community participation in content development and ownership;
 - Takes into account cultural, religious, language and demographic needs;
 - Promotes tolerance and democracy;
 - Provides distinctly local service focusing on community issues not covered by the public broadcasters in the area
 - Is educational, informative and entertaining
 - Focuses mainly on developmental issues, health, basic information and education, environmental affairs, local and international affairs and reflecting local culture; and
 - Improves quality of life and promotes a shared sense of purpose within a democracy.
 - Ensures community integration and cohesion;
 - Offer content, news and public affairs, documentaries and sport that is mainly local and community based.
- Stations must forge partnerships with local municipalities as these are the locus of development.

Governance:

- A community station will be governed by a Governing Council.
- The Governing Council will have between 5-7 members elected by the community at a public meeting.
- The term of office for a Governing Council member will be a maximum of 3 years.
- Members of Governing Council:
 - Should have relevant experience and expertise - broadcasting, education, management, community development, religion, culture, finance or any other relevant skills.
 - Should be committed to community development;
 - Should be broadly representative of the community in the coverage area, including gender;
 - Live full-time in the area of coverage;
 - Be committed to the objects and principles of the Charter for community broadcasting service;
 - Anyone who replaces someone who leaves will fill the position for the period remaining of the departing person's term of office.
 - Governing Council vacancies must be advertised in an accessible way.
 - Quorum will be three members of the Governing, including the Chairperson or Deputy Chairperson.
- Funding for community broadcasting services will be from:
 - The PSB Fund – which requires compliance with the PFMA;
 - Grants and donations;
 - Advertising – regulations will determine the percentage.
- For its development mandate, it must partner with municipalities:
 - Obtain information about development from the municipalities;
 - Obtain physical space, facilities and infrastructure from municipalities.
 - Facility sharing;

- General support – including financial support – from municipalities to community broadcasters;
- Ensure a comprehensive approach to development.
- A Standard Terms of Agreement Framework will be developed by ICASA to outline the terms of the Agreement to protect the independence of community broadcasters.
- ICASA is responsible for monitoring these partnerships and for reviewing the Framework from time to time.
- Commercial broadcasters are encouraged to support public services broadcasting and can apply to the PSB Fund for this purpose.

Chapter 7: Ensuring universal access to broadcasting services

- Sentech must ensure access to broadcasting services by citizens and content providers to a robust transmission network infrastructure.
- Sentech's signal distribution network is declared an essential facility and therefore a common carrier in terms of the National Key Points Act 102 of 1980.
- As a common carrier, Sentech must:
 - Ensure universal access to broadcasting services by prioritising rural areas in terms of its roll-out of the transmitter network;
 - Ensure that a robust transmission network infrastructure is maintained and available;
 - Carry both public and community broadcasting services at reasonable costs; and
 - Contribute to an information society by rolling out broadband infrastructure to rural communities.
- Sentech can apply for PSB Funds for signal distribution services only

Chapter 8: The Functions ICASA in Public Service Broadcasting

The general function of ICASA must be to monitor and enforce strict compliance with public broadcasting in general and the Charters of Public and Community broadcasting services.

The specific functions of ICASA in relation to SABC:

- Conduct public hearing – at least twice a year (biannually) – about SABC’s compliance with the Charter;
- Investigate public complaints by the public and call the Board to a hearing regarding the complaints;
- Usage of money from the PSB Fund;
- Impose fines and penalties; and
- Any matter related to the SABC’s fulfilment of its mandate.

The specific functions of ICASA in relation to Community Broadcasting Services:

- Strict compliance with the Community Broadcasting Services Charter;
- Suspend or revoke a license where there is instability or conflict at the station based - non-compliance with the Act or license terms and conditions
- Managed approach to the licensing of the sector to ensure sustainability;
- Dispute resolutions at the stations; and
- Conduct hearings on the performance of the sector.

These powers and actions will occur in cases where community broadcasting service licensees have been given a reasonable opportunity to be heard and have failed on numerous occasions to remedy the problems.

The specific functions of ICASA in relation to a Common Carrier:

- Monitor the transmitter rollout plans to ensure universal access to transmitter networks by broadcasters, content providers and broadcasting services by citizens;
- Conduct inquiries and review tariff structures set by Sentech;
- Conduct investigations into the quality of signal distribution services provided by Sentech;
- Powers to inspect the books in terms of monies received from the PSB Fund, direct subsidies and / or grants from the State’
- Impose fines or penalties in cases where Sentech has continuously failed to fulfil its mandate

The specific functions of ICASA in relation to the MDDA and PSB Fund:

- Hold public hearings on the performance of MDDA in relation to the PSB Fund;
- Investigate complaints regarding the Fund from beneficiaries and interested persons;
- Receive annual reports on the usage of the Fund;
- Make recommendations to the Minister in relation to the Fund.

The fines and penalties imposed by ICASA in terms of this Act may be money and / or additional obligations. If it money, the fine will be paid into the PSB Fund.

Chapter 9:

The Role of the Minister

The Minister is ultimately responsible for the effective monitoring of this Act.

The Minister may set up an advisory body to assist him/her in performing this monitoring function.

The Minister will determine the nature, terms of such a body, its conditions and its composition.

When it is established, the body will monitor and advise the Minister on the implementation of public service broadcasting matters including:

- How the different broadcasters – especially public and community broadcasters – are achieving the mandate of public service broadcasting
- Funding matters;
- Signal distribution;
- Policy and regulations;
- Local content matters and/ or;
- Any other matter that may be critical to the successful implementation (and within the scope of this Act) and public service broadcasting in general.

In this regard, the advisory body will work closely with the Local Content Advisory Body³.

Regulations by the Minister

The Minister may make regulations regarding:

- The contributions to the PSB fund and the usage of the Fund;
- Any exemptions to contribute to the PSB Fund; and
- Any matters related to public service broadcasting – with the exception of those that prohibited in terms of the EC Act

And these regulations must be published in the gazette.

Intervention by the Minister in terms of SABC

The Minister can, instruct the Board of the SABC to take any action considered necessary by the Minister if the SABC:

- Is in financial difficulty or is being mismanaged;
- Is unable to perform effectively;
- Has acted unfairly or in a unfair or discriminatory way towards a person it has a duty to in terms of this Act;
- Has failed to comply with any law;
- Has failed to comply with any directive given by the Minister in terms of this Act; or
- Has obstructed the Minister or a person authorised by the Minister in performing a function in terms of this Act

³ To be established in terms of Section 28 of the Bill

If the SABC fails to remedy the situation within the given time period, the Minister may – after giving the SABC a reasonable opportunity to be heard and after having afforded the SABC a hearing on any submission received – write to ICASA or the Appointing Body⁴ to take appropriate action.

Such appropriate action could include (but is not limited to) conducting inquiries, recommendations for replacement or removal of the Board member(s) by Parliament.

Chapter 10: Establishment of Broadcasting and Signal Distribution Museum

The Bill proposes the setting up of a Broadcasting and Signal Distribution Museum jointly by the SABC and Sentech.

The purpose of the Museum is to show the evolution and history of broadcasting and signal distribution in South Africa.

The Museum must be set up within 18 months of the start of this Act.

The Museum must be funded by funding set aside by Parliament for this purpose; from grants, donations, sponsorships and from subsidies from the proposed PSB Fund.

The SABC may charge reasonable entry fees to the Museum and should encourage the public to visit it.

Chapter 11: Local Content Industry and the Advisory Body to Minister

ICASA should issue an Invitation to Apply (ITA) for specialist channels prioritising children, ethno-documentaries and wildlife – within 9 months of the digital switch-over from analogue to digital – to increase demand of local content

These specialist channels may be public channels or commercial channels or public/private partnerships with significant ownership by people from historically disadvantaged backgrounds.

These specialist channels will be able to get revenue from the PSB Fund, depending on their ownership structure.

ICASA will determine how these specialist channels can derive monies from advertising.

These specialist channels will:

- Have a national coverage and be provided on a free-to-air basis;
- Owned by South African persons or groups;
- Offer specialist programming that is mainly local; and
- Ensure significant space for programmes produced by the independent productions sector.

⁴ The Appointing Authority is the authority that appoints the Board of the SABC - Parliament

The Minister must establish a Local Content Advisory Body to advise him / her on how to support the development, production and display of local content.

The Minister, in consultation with the Minister of Finance, will decide on the composition, allowances and meetings of the Advisory Board.

The Advisory Board must advise the Minister on:

- Producing broadcasting materials that reflect the cultural needs of South Africans;
- The screening and airplay of local content on digital platforms;
- The marketing of local content in South Africa and foreign markets;
- The distribution and showing of local content in foreign markets;
- Equity in the local content production industry;
- Human resource development of local content providers;
- Co-productions and international agreements;
- Efforts to deal with signal piracy, intellectual property protection and cyber-security; and
- Protection of copyrights and protection of children against harmful content.
- Policies and strategies for producing and displaying local content;
- Financing strategies to support producing and displaying local content;
- Supply-side measures and initiatives to support producing local content; and
- Policies to boost local content production for the multi-channel and digital broadcasting environments.

THE SABC CHARTER

Terms of Charter

The Charter will remain valid for between 5 and 10 years.

The SABC' public service mandate and objects:

The SABC's primary mandate is to serve the public interest.

It can have commercial activities – to the extent allowed by this Charter, the PFMA – and has to be approved by the Minister in consultation with the Minister of Finance.

How the SABC promotes its Public Service Mandate:

- The SABC's mission is to inform, educate and entertain
- It should be a leader in public service broadcasting
- It uses television, radio and online services to achieve its mission. It can also use new technologies as they develop.

- It can also have other activities to assist in achieving its mission but broadcasting should be the primary focus.

The Independence of the SABC:

The SABC has freedom of expression, journalistic, creative and programming independence as enshrined in the Constitution.

Constitution

In the SABC, the Board and Executive Management play inter-linked and complementary roles.

The Board's main role is to set the overall strategic direction and priorities for the SABC and to exercise general oversight over the Executive Management.

Executive Management is responsible for implementing the strategy, all aspects of operational management, efficient use of resources according to the PFMA and other legislation.

Relationship between the Board and Executive Management:

- Executive Management takes instruction from the Board.
- The Board is the highest body in the SABC.
- Executive Management has operational responsibility for activities.
- The Board and Executive management must be guided by general principles of good corporate

The Board of the SABC

- The Board consists of 12 members –
 - a Chairperson, and a Deputy Chairperson, and
 - 10 ordinary members appointed by the President on advice from the National Assembly⁵
- Every member of the Board must take an oath or affirmation committing him / her to fairness; freedom of expression, openness and accountability, serving the public interest; and, upholding and protecting the Charter and other laws of the country, including the Constitution
- The President appoints the Chair and Deputy Chair.
- The Chair must:

⁵ In accordance with Section 19 of the Act

- Make sure that the Board performs as a cohesive unit;
- Provide strategic leadership to the Board and the SABC;
- Make sure that the Board and its committees function effectively;
- Ensures that the SABC accounts to the Shareholder (the DoC) and the public
- The Deputy Chair acts in the absence of the Chair. During this time, the Deputy Chair is the 'Acting Chairperson. The Deputy cannot act for more than 6 months.
- The President will determine the period of office for Board members but it will not be for longer than 5 years.
- A member will stop holding office:
 - At the end of the term of office;
 - If a written resignation to the President is submitted;
 - If the President terminates the appointment:
 - On the basis of misconduct or inability to perform after due process;
 - On the basis of a resolution adopted by the National Assembly;
 - On the basis of a written resignation with 3 months notice. The President can reduce the notice period.
 - If he / she becomes bankrupt;
 - If he / she suffers from a mental disorder;
 - If he / she fails to attend Board meetings continuously for three months or longer without Board approval; and
 - If the Board recommends the resignation to the President for any reason.
- The National Assembly can recommend the dissolution of the Board on the basis of:
 - If the Board fails in its fiduciary duties;
 - The Board does not adhere to the Charter;
 - The Board does not carry out its activities.
- An interim Board of 5 members must be set up if the Board is dissolved:
 - The National Assembly recommends the interim Board members.
 - The interim Board will not act for more than 6 months.

- All board members must make the required disclosures.
 - Board members must recuse themselves from board meetings where there is a conflict of interest
 - Their disclosures and the Board's decision about the disclosure must be minuted.
 - If a Board member fails to make a disclosure, the board proceedings will be null and void

- A person cannot be a Board member if:
 - He / she is not a citizen or a permanent South African resident.
 - Is convicted for any offence.
 - Has committed fraud, corruption or perjury.

- The Minister will determine Board members' remuneration according to National Treasury Regulations.

- The Minister, with the National Assembly, must set up a performance management system to monitor and evaluate the performance of the Chairperson and Board members.

- The Board will meet to conduct its work.
 - The Board will determine the processes and procedures for undertaking its work – standing orders.
 - The standing orders will make provision for telephone or video-conferencing.
 - Seven members of the Board, including the Chair or the Deputy Chair, will constitute a quorum.

- Board committees
 - The Board should set up the following sub-committees:
 - Public Service;
 - Commercial Service;
 - International Service;
 - Any other appropriate committees.

- Committees must report to the Board on progress towards achieving their mandates.
 - The Board will decide on the number, composition and responsibility of the committees but committees cannot include non-Board members.
- Regulations
 - The SAC must develop proper financial regulations to manage the Corporation's resources effectively.
 - These regulations must be approved by the Minister after consulting with the Minister of Finance.
 - The SABC must decide how to publicise the regulations.
 - The SABC must have a bank account with a registered bank.
 - The SABC may invest surplus monies on the approval from the Minister.
 - The surplus can be carried over to the next financial year.
 - Any dividends received by the State from this surplus must be paid to the National Revenue Fund.
- Functions of the Board
 - The Board controls the affairs of the SABC.
 - The Board appoints the Group CEO, the COO and the CFO and their equivalents in consultation with the Minister.
 - The Board maintains the integrity of the organisation.
 - Ensures compliance with broadcasting policies and regulatory framework.
 - Monitors performance management in relation to targets and objectives
 - Ensures public accountability
 - The SABC must submit revised policies to ICASA that comply with the Act, ICASA's Code of Conduct and the license conditions and terms within a year :
 - News editorial policy;
 - Programming policy;
 - Local content policy;
 - Educational policy;

- Universal service and access policy
 - Language policy; and
 - Religious policy
 - The SABC must notify ICASA of any policy amendments in writing within 30 days.
 - The Board must ensure public participation in the development of the policies.
 - The Board must ensure mechanisms for regular public input on its services.
- The SABC must develop a Code of Practice that ensures services and staff comply with:
 - The constitutional principle of equality;
 - The equitable treatment of all South Africans;
 - The right to information for all South Africans.
 - The mandate to provide for a wide range of audience interests, beliefs and perspectives; and
 - A high standard of accuracy, fairness and impartiality in news and public interest programmes

The Executive Management

- Administers the affairs of the SABC through the Executive Committee.
- The executive committee comprises the Group CEO, the COO and the CFO or their equivalents as appointed by the Board.
- The executive management is accountable to the Board.
- The executive management is responsible for:
 - Implementing the strategy, services and priorities set by the Board;
 - Directing the SABC's editorial and creative output;
 - The operational management of the SABC;
 - Ensuring compliance with all legal and regulatory requirements and compliance with Board requirements;
 - The day-to-day management of the SABC and its subsidiaries and the efficient management of the SABC's financial affairs;
 - Accounting to the Board for its performance and the performance of the Corporation;
 - Obtaining Board approval for what it does.

- The Board Chairperson must establish a performance management system to monitor and evaluate the executive management's performance with indicators, performance targets and an annual performance measurement procedure.
- The Board must establish a Public Broadcasting Advisory Council to serve as the link between the SABC and the public
 - The Audience Council will be composed of 9 members representing provincial and regional diversity;
 - A board member will be allocated a Audience Council member to ensure that provincial needs are addressed;
 - The Audience Council is responsible for ensuring provincial forums or platforms exist to discuss public broadcasting issues – access, content, progress on the public mandate, etc.
- The Audience Council should:
 - Assess SABC's performance in promoting its public mandate;
 - Submit a report to the Board every 6 months on the SABC's performance in each province and on provincial issues;
 - Publish an annual review report assessing the SABC's progress in meeting its public mandate and this should be included in the annual report;
 - Will consist of persons who are not SABC employees and who have public broadcasting or relevant skills;
 - One person will be elected Chair on a rotational basis;
 - The term of office will be 4 years
 - The Board will determine the procedures and quorum for the Audience Council's meetings;
 - The Council must report regularly to the Board
 - Members of the Council will not be paid but will be reimbursed for expenses incurred;
 - The Board will establish a framework to outline how the Advisory Audience Council will be set up, its composition and remuneration.
- The Board will hold annual provincial consultative meetings to engage the public on the SABC's implementation of its public mandate and reports of these meeting will be compiled for record purposes.
- Public Complaints Handling Framework:
 - Will be developed and implemented by the SABC within 6 months of Charter being in force;

- Will be published for public comments and will have to be approved by the Minister;
 - A register of public complaints should be maintained and made available to the Minister, ICASA or Parliament on request.
- The Group CEO is the editor-in-chief of the SABC and is accountable for editorial and creative outputs and general management.
- The SABC will determine the conditions and benefits for staff.
- The Board and Executive Management will put in place mechanisms to:
 - Consult staff on matters that concern them;
 - Deal with matters of health, safety and well-being; equal opportunities and training, and terms and conditions of employment.
- The financial year begins on the 1st April of each year and ends on the 31st March of the following year.
 - The Minister may request other annual statements in addition to the annual financial statements.
 - The Minister must table the annual financial statements in the National Assembly.
- The SABC must keep proper financial systems and records
 - The SABC must prepare annual financial statements;
 - The SABC must reflect each division's accounts separately;
 - The SABC must comply with the PFMA.
- Auditing
 - The SABC must appoint auditors to conduct an auditor in addition to the PFMA audit;
 - The auditor must report audit disallowances to the Board;
- Annual Report
 - The Board must submit its annual report together with a balance sheet, its audited financial statements and the Auditor's report to the Minister by the 30th September in each year;
 - The Minister must table the report in Parliament within 7 days of receipt of the report
 - The Board must ensure the SABC's compliance with the PFMA requirements in terms of the annual report

- The Board exists as a legal person.

- Borrowing powers - the SABC needs to the prior written approval of the Minister and the Minister of Finance in order to borrow.

- Rights and Obligations
 - The SABC must comply with its license conditions and obligations.

- Articles of Association
 - The existing article of association between the Board and the Minister needs to be revised to be consistent with this Charter and Act;
 - The terms of this Charter will prevail in cases of any contraction

- Overseas concessions

The SABC must get the Minister's approval in consultation with the Minister of International Relations before it acquires any license, concession, right or privilege or enters into any agreement with a any other Government.

- Compliance
 - The SABC must comply strictly with this Charter;
 - Anyone who is aggrieved or adversely affected by the SABC's non-compliance, can seek appropriate remedy;

A CHARTER FOR COMMUNITY BROADCASTING SERVICES

Preamble

Community broadcasting is:

- Non-profit,
- Community owned and managed.
- Pursues a social development agenda.

Guiding Principles:

- Community development and participation;
- Offers a plurality of views, and a variety of news, information and analysis from a South African perspective;
- Advances community interests;
- Promotes inclusivity by reflecting all South Africans;
- Protects children against harmful content;
- Contributes to moral regenerations; and
- Respects human rights; including the right to privacy unless there is a compelling public interest demand.

Terms of Charter

The Charter will remain valid for between 5 and 10 years.

Community broadcasters' nature and objects:

Community broadcasters' primary mandate is to serve community interests.

It can have commercial activities – to the extent allowed by this Charter and the Act.

The community broadcasters' mission is to inform, educate, entertain and be a vehicle for community development.

The Independence of Community Broadcasters:

Community broadcasters are guaranteed journalistic, creative and programming independence as enshrined in the Act.

Community broadcasters remain editorially independent even though municipalities provide physical space to them.

Constitution

In stations, a Governing Council and Station Management play inter-linked and complementary roles.

Governing Council's main role is to set the overall strategic direction and priorities for the station and to exercise general oversight over the Station Management.

Station management is responsible for implementing the strategy and priorities as set by the Governing Council, all aspects of operational management, and the efficient use of resources according to the PFMA and other legislation.

Relationship between the Governing Council and the Station management:

- Station management takes instruction from the Governing Council.
- Governing Council is the highest body in the station.
- Station management has operational responsibility for activities.

The Governing Council and Station management must be guided by:

- General principles of good corporate governance that are applicable, appropriate and relevant;
- General management guidelines for public bodies that is relevant and appropriate;

The Governing Council:

- Governing Council consists of 5 members –
 - Who are democratically elected by the community;
 - Are members of the community in the coverage area;
 - Municipal officials can be co-opted to the Council as ex-officio members
 - One member must be elected as the Chair and one as the Deputy Chair.
- The Chair must:
 - Make sure that the Council performs as a cohesive unit;
 - Provide strategic leadership to Governing Council and the station;
 - Make sure that Governing Council and its committees function effectively;
 - Make sure that strategies are implemented and performance management systems with Station management are in place
 - Ensures that the station accounts to the Shareholder (the DoC) and the public.
- The Deputy Chair acts in the absence of the Chair. During this time, the Deputy Chair is the ‘Acting Chairperson with all the Chair’s powers.
- The community will determine the period of office for Board members but it will not be for longer than 4 years.
- A member will stop holding office:
 - At the end of the term of office;
 - If a written resignation is submitted;
 - If the community terminates the appointment:

- On the basis of misconduct;
 - Absence from three Council meetings without apology ;
 - Inability to perform his / her duties effectively
- A person cannot be a Council member if:
 - He / she is not a citizen;
 - Is not a member of the community in the coverage area;
 - Is an office-bearer or employee of a political party;
 - Is a Member of Parliament, a Provincial Legislature or a municipal council;
 - Has a family member or business partner who works for the station or has financial interests in the station (direct or indirect);
 - Is convicted for any offence;
 - Has committed fraud, corruption or perjury;.
 - Has been removed from office because of misconduct.
- All Council members must make the required disclosures.
 - Council members must disclose their interests and recuse themselves from Council meetings where there is a conflict of interest
 - Their disclosures and Governing Council's decision about the disclosure must be minuted.
 - If a Council member fails to make a disclosure, Governing Council proceedings will be null and void
- Members of the Council will not be paid but will be reimbursed for expenses incurred provided that there are funds available for reimbursement. These payments must be reported in the annual report of the station.
- The Governing Council will meet to conduct its work.
 - The Chairperson will chair the meetings or the Deputy Chair in the absence of the Chairperson.
 - Council meetings have to be minuted and be available to the public on request.
- Board committees
 - Governing Council should set up sub-committees as needed.

- Committees must perform any function, including decision-making as delegated by Governing Council.
 - The Governing Council will decide on the number, composition and responsibility of the committees but committees cannot include non-Board members.
- Role of The Governing Council:
 - Governing Council controls the affairs of the station.
 - Governing Council appoints the station manager of the station.
 - The Governing Council is the accounting authority of the station.

The Station management

- Administers the affairs of the station as appointed by the Governing Council.
- The station management is accountable to the Governing Council.
- The station management is responsible for carrying out the functions determined by the Governing Council.
- The Governing Council cannot interfere in the day-to-day running of the station.
- A Governing Council member can only be appointed to the station management as an interim measure and for not more than 6 months.
- The station management consists of the Station manager, Programming Manager and their equivalents – appointed by the Governing Council.
- The station management is responsible for:
 - Implementing the strategy, services and priorities set by the Governing Council;
 - Directing the station's editorial and creative output;
 - The operational management of the station;
 - Ensuring compliance with all legal and regulatory requirements;
 - The day-to-day management of the station and its subsidiaries;
 - The efficient management of the station's financial affairs;
 - Accounting to the Council for its performance and station's performance;
 - Obtaining Board approval for what it does.

The Governing Council must submit revised policies to ICASA that comply with the Act, ICASA's Code of Conduct and the stations license conditions and terms with a year of this Act:

- News and current affairs;
 - Programming and content;
 - Community access to the station;
 - Language use.
- The Governing Council must ensure public participation in the development of the policies.
 - The Governing Council must ensure mechanisms for regular public input on its services
- The Governing Council must develop a Code of Practice that ensures services and staff comply with:
 - The constitutional principle of equality;
 - The equitable treatment of all South Africans;
 - The right to information for all South Africans.
 - The mandate to provide for a wide range of audience interests, beliefs and perspectives; and
 - A high standard of accuracy, fairness and impartiality in news and public interest programmes.
- The Governing Council must establish a Community Audience Advisory Council.
 - The Advisory Council will serve as the link between the station and the community
 - The Audience Council will be composed of members representing the diverse perspectives of the station's coverage area;
 - The Governing Council is responsible for ensuring forums or platforms exist to discuss issues of access, content, and progress on the developmental mandate, etc.
- The Audience Advisory Council should:
 - Be consulted on the station's performance in promoting its mandate;
 - Submit a report to Governing Council every 6 months on the station's performance in each community of coverage and issues arising;

- Publish an annual review report assessing the station's progress in meeting its mandate and this should be included in the station's annual report which is submitted to Parliament;
 - Will consist of persons who are not station employees and who have relevant skills;
 - The Governing Council will elect a Council member as Chair on a rotational basis;
 - It will meet on an ad-hoc basis and will not need a quorum for meetings;
 - The Council must report regularly to Governing Council
 - Members of the Advisory Council will not be paid but will be reimbursed for expenses incurred;
 - Governing Council will establish a framework to outline how the Advisory Audience Council will be set up and run.
- Stations must develop partnerships with relevant organisations and people, and especially local municipalities to promote development
- Organisational Matters:
 - The Station Manager is the editor-in-chief of the station and is accountable for editorial and creative outputs and general management.
 - The station will determine the conditions and benefits for staff.
 - The appointment of general staff will be the station management's responsibility.
 - Such staff may be full-time, part-time or voluntary depending on the station's financial position.
- The station must keep proper financial systems and records
 - Of all monies received;
 - Of all its assets and liabilities;
 - Of all its financial activities;
 - Within 6 months of the financial year end, prepare annual financial statements;
 - These financial statements have to be audited by an auditor
 - The Governing Council must appoint the auditor;
 - The Governing Council must prepare an annual report together with a balance sheet and its audited financial statements within four months after the end of the financial year;

- The annual report must be available to the community and ICASA; and
 - The annual report must be presented to the community at a community meeting and be available for inspection at the station.

- The station must invest any surplus funds for the community's benefit. This must be monitored by ICASA.

- ICASA has the power to audit a station's finances.

- The station must be licensed, must pay its license fee and comply with its license conditions and obligations.