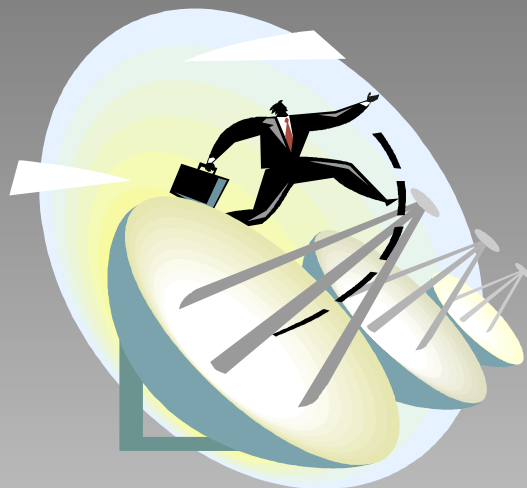




Independent Communications Authority of South Africa



# Inquiry into Regional Television

**DISCUSSION PAPER**

22 August 2003

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## SECTION A

### 1. AIMS OF THE DISCUSSION PAPER

The purpose of the Discussion Paper is to generate comment from all stakeholders on the introduction of Regional Television (“RTV”) in South Africa as enunciated by section 28 of the Independent Broadcasting Act, 1993. The Discussion Paper’s primary objective is to:

- Solicit public participation and input in developing the regulatory framework for RTV in South Africa.
- Generate discussion on the appropriate policy and licensing framework for the introduction of RTV.

The Discussion Paper briefly discusses the overarching policy principles or guidelines that necessitate the consideration of licensing broadcasting services at regional level, as well as the public, commercial and community aspects of licensing.

The Discussion Paper is structured in the form of questions supported by explanatory and contextual discussion. Questions posed are not necessarily all-encompassing and submitters should feel free to provide additional informational and any economic research they feel necessary to substantiate their responses.

The Discussion Paper is divided into four sections. Section A sets out the guiding policy principles or framework for the introduction of RTV in South Africa and briefly discusses issues which apply to all three tiers of broadcasting. Section B investigates public RTV services and considers aspects such as enabling legislation, market demand and a proposed model for public RTV. Section C adopts a similar approach to Section B in investigating the potential introduction of commercial RTV services and a proposed model for Commercial RTV. Section D focuses on community RTV services and raises some questions on how such services could be introduced.

The Independent Communications Authority of South Africa (“the Authority”) would welcome input on issues related to the introduction of regional television that stakeholders feel the Authority may have neglected.

The Authority invites interested parties, stakeholders and the public to respond to the issues and questions raised in the Discussion Paper. Submissions will be public documents and should be provided to the Authority in both electronic and hard copy formats. Electronic copies will facilitate the posting of submissions on the Authority's website (<http://www.icasa.org.za>). The Authority will post all submissions on its website, except where the submitter has requested that inputs remain confidential.

Interested parties and stakeholders should indicate when they provide their submission if they do not wish to have all or part of the submission made publicly available. Reasons why the Authority should restrict access to the material should be provided with the submission.

**Written Submissions should be sent to:**

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E-mail : [vletsiri@icasa.org.za](mailto:vletsiri@icasa.org.za)

**OR**

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Independent Communications Authority of South Africa  
164 Katherine Street, Pinmill Farm  
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**OR**

Post : Private Bag x10002  
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**OR**

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Any interested person or organisation who submits written representations should indicate whether they require an opportunity to make oral presentation at the hearings.

The closing date for the receipt of representations is **29 September 2003 at 16h30.**

## **2. POLICY DEVELOPMENT PRINCIPLES AND GUIDELINES**

The purpose of this section is to explore the overarching policy principles that guide the Authority in approaching the introduction of RTV in South Africa. According to section 28 of the Independent Broadcasting Authority Act, Act No. 53 of 1993, as amended (hereinafter referred to as “the IBA Act”), the Authority may from time to time conduct an inquiry into any matter relevant to the achievement and application of the principles of broadcasting as enunciated in section 2 of the Act. This means that any Inquiry into the potential introduction of regional television broadcasting services must be in line with the guiding principles of broadcasting as set out in section 2 of the IBA Act. It is therefore essential before any study or inquiry could be undertaken on this matter that section 2 of the IBA Act be taken into consideration.

### **2.1 Independent Broadcasting Authority Act**

Section 2 of the IBA Act states that the primary purpose of the Act is to provide for the regulation of broadcasting and for that purpose to, *inter alia*-

- (a) promote the provision of a diverse range of sound and television broadcasting services on a national, regional and local level, which, when viewed collectively, cater for all language and cultural groups and provide entertainment, education and information.
- (b) promote the development of public, commercial and community broadcasting services which are responsive to the needs of the public;
- (c) ensure that broadcasting services, viewed collectively-
  - (i) develop and protect a national and regional identity, culture and character;
  - (ii) provide for regular-
    - (aa) news services;
    - (bb) actuality programmes on matters of public interest;
    - (cc) programmes on political issues of public interest; and
    - (dd) programmes on matters of international, national, regional and local significance.

The significance of section 2 is that it very clearly places an obligation upon the Authority to promote the introduction of a diverse range of sound and television services at national, regional and local level. Sound broadcasting services are offered at national, regional and local level, however, television broadcasting services are currently only offered at a national

level, with the exception of one “grand-fathered’ licensee at community level (Trinity Broadcast Network). The Authority has also licensed a range of community groups as special events television licensees.

In the Triple Inquiry Report, 1995, the Authority recommended that the new commercial free-to-air channel may consist of regional network stations. This option was preferred on the grounds that licensing of regional stations would allow for a diverse range of owners to enter the television industry. It was also argued that regional television stations would stimulate the development of production centres and infrastructure throughout the country making an important contribution to promoting and developing regional identity, culture and character. The achievement of these goals of course would rest on the availability of resources.

Parliament’s report on the Triple Inquiry Report in March 1996 stated that the Authority should licence a new free-to-air commercial channel by July 1997. Parliament further required the Authority to consider the introduction of a second commercial channel and, if financially viable, that it be introduced in a phased-in manner<sup>1</sup>. The Authority conducted a national consultative process, which led to the decision that at that point in time regional networked stations were not economically feasible. This led to the licensing of e-tv as a national free-to-air broadcaster, rather than the original proposed concept of regional network stations. The principle set out in section 2 of the IBA Act that a diverse range of television services at regional level be promoted was met to a certain extent by including “provincial diversity” as a licence condition for e-TV.

New legislative requirements for introducing public regional television, technological advances and interest expressed in such licences by commercial entities have placed these issues once again on the policy agenda. The Authority is thus conducting a public inquiry to determine public demand for and the financial sustainability of such services in the new millennium. After the Authority has applied its mind, its decision to introduce RTV will depend upon factors such as economic sustainability, audience fragmentation, and impact upon other market incumbents or public demand for these services.

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<sup>1</sup> IBA.1997. Position Paper for the introduction of the first-free-to-air private television service in South Africa

## **2.2 Broadcasting Act, 1999**

Section 2 of the IBA Act directs the Authority to promote television broadcasting at national, regional and local level. The introduction of regional television broadcasting services would therefore satisfy the objects of section 2 of the IBA Act. The categorisation of broadcasting licences is set out within the three tier system of broadcasting in South Africa. Section 5(2) of the Broadcasting Act, Act No. 4 of 1999 (hereinafter referred to as the “Broadcasting Act”) provides that subject to this Act, broadcasting licences are categorised as-

- (a) free-to-air broadcasting service;
- (b) terrestrial subscription broadcasting service;
- (c) satellite subscription broadcasting service;
- (d) cable subscription broadcasting service;
- (e) low power sound broadcasting service; and
- (f) any other class of licence prescribed by the Authority from time to time.

The licensing of RTV is enabled by section 5(2) of the Broadcasting Act. Furthermore, section 5(1) of the Broadcasting Act provides that subject to the provisions of this Act, the Authority may on such conditions as it may determine, issue a sound or television broadcasting service licence for a specified area in the following broadcasting service categories:

- (a) a public broadcasting service;
- (b) a commercial broadcasting service; and
- (c) a community broadcasting service.

Therefore based on the objects of section 2 of the IBA Act and section 5 of the Broadcasting Act, the Authority may issue public, commercial or community RTV broadcasting licences. The Authority is aware that the licensing framework may change once the Department of Communications has completed the drafting of the Convergence Bill and it is promulgated as an Act of Parliament. If any RTV licences are issued prior to the new licensing framework coming into effect, they would then be subject to the transitional measures in the new legislation for existing communication licences.

### **3. FREQUENCY ASSIGNMENT**

RTV services will make use of the available spare capacity in the television bands. However, there are potential demands on these spare capacities which necessitate prioritisation and reorganisation. These demands are:

- the rollout of Digital Terrestrial Television (DTT);
- the potential introduction of local television broadcasting services; and
- the possible migration of current VHF television channels 11 and 13 to the spare UHF assignments in view of accommodating Digital Audio Broadcasting (DAB) in Band III.

For further information, refer to sections 2.1, 2.10, 2.14 and Annexure E of the Terrestrial Broadcast Frequency Plan 2003, GG 25258 of 25 July 2003.

*Q.3.a Given the scarcity of terrestrial frequencies in South Africa, in your opinion how many public, commercial and community regional licences should the Authority consider granting, in which areas and why in those areas specifically?*

*Q.3.b What implications will the convergence bill have on frequency allotment?*

*Q.3.c Should there be a need to re-categorise frequency allotment and how should this be done?*

*Q.3.d In the advent of digitalisation how should frequencies be categorised?*

### **4. LICENCE FEES**

Section 78 of the IBA Act states that:

(1) The Council may make regulations, not inconsistent with the provisions of this Act- in relation to-

(bB) payment to the Authority of charges and fees in respect of broadcasting licences, including applications of all descriptions, the issue, renewal, amendment, transfer or other disposal of broadcasting licences or any interest in broadcasting licences and the periodical maintenance of the force and effect of such licences;

(1A) Different charges and fees may be prescribed under paragraph (bB) of subsection (1) in respect of different licensees and different categories and types of licensees base on any characteristic or criterion whatsoever, including the income, revenue or audience size of a licensee or the antenna height, power output, or radiation pattern.



In this context, the Authority stipulated the following administrative fees for the commercial free-to-air broadcaster.

Licence application fee	<b>R300 000.00</b>
Issue of Licence	<b>R 5 000.00</b>
Application for amendment	<b>R200 000.00</b>
Application for renewal	<b>R300 000.00</b>

All these fees are non-refundable.

*Q.4.a What administrative fees should be imposed on public, commercial or community RTV services if they are introduced?*

## **5. ADVERTISING**

A general principle when regulating advertising is to strike a balance between the financial interests of the broadcaster and advertisers on the one hand and interests of the viewers on the other. The regulation of advertising content falls under the jurisdiction of the Advertising Standards Authority (ASA). The ASA is empowered by section 57 of the IBA Act which states that all broadcasting licensees must adhere to the Code of Advertising Practice as from time to time determined and administered by the ASA. The Authority has jurisdiction over the amount of advertising allowed for broadcasters and the scheduling thereof.

Currently, e-tv is permitted an average of 10 minutes per hour, measured annually with a maximum of 12 minutes allowed in any one hour. This is in line with free-to-air advertising limits.<sup>2</sup> The scheduling of advertisements in general is currently not regulated, even though the Authority does have jurisdiction. The Authority has set specific regulations on the scheduling of infomercials. These are as follows:

- that broadcasters must clearly label infomercials so that the viewing audience can be able to distinguish between infomercials and normal programming;
- that each channel is restricted to a maximum of two hours of infomercials during performance period in any one day; and

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<sup>2</sup> IBA, Position Paper on the "Introduction of free-to-air television in South Africa", 1997

- that the viewing audience should have real choice and accordingly that infomercials are not carried on all free-to-air broadcasters at the same time.<sup>3</sup>

*Q.5.a What advertising limits should be imposed on public, commercial or community RTV services?*

## **6. ANALOGUE VERSUS DIGITAL DEBATE**

Globally there is a migration from analogue broadcasting to digital broadcasting. In most countries governments have set specific time frames for this transition phase to be completed and have put in place frequency plans to accommodate the interim phase of dual broadcasting when broadcasters will be providing both an analogue and a digital broadcasting service. South Africa will obviously have to follow this trend to remain competitive in a global market and to avoid analogue technological obsolescence.

If South Africa migrates from analogue broadcasting to digital broadcasting within the next decade, it makes sense from an economic point of view for new entrants to the broadcasting market to offer their services on a digital platform (either Digital Terrestrial Television or satellite digital broadcasting).

In the context of public RTV services, such a step would need to be evaluated in terms of its economic impact both for the broadcaster and the public, as well as the impact on the universal access obligation of a public broadcasting service. Delivery on a digital platform would still comply with the definition of free-to-air service as set out in the Broadcasting Act, namely that a free-to-air service “means a service which is broadcast and capable of being received without payment of subscription fees”. Although there will be no subscription fees the consumer will incur some costs in terms of purchasing equipment to receive the transmissions. A digital platform would be ideal for any commercial RTV subscription service in terms of the ability to offer multiple services to subscribers on a single channel. However, the Authority will not be licensing any subscription television services at national, regional or local level until the position paper and regulations on subscription broadcasting have been published.

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<sup>3</sup> IBA, Position Paper on “A definition of advertising, the regulation of infomercials and the regulation of programme sponsorship”, March 1999

*Q.6.a Bearing in mind the universal access and coverage obligations of a public broadcasting service, should public RTV be allowed to broadcast on Digital Terrestrial Television (DTT) or via satellite on a free-to-air channel?*

*Q.6.b Should public regional services be accommodated as free-to-air services on digital satellite or Digital Terrestrial Television what would the economic costs be for the public and how could these be potentially reduced?*

*Q.6.c Should community regional services be allowed to use other platforms to broadcast?*

## **7. ENCOURAGING DIVERSITY**

In regulating RTV the Authority should ensure that the requirements of the IBA Act and the Broadcasting Act relating to regional/provincial identity, culture and character are addressed. RTV services service when viewed collectively should reflect the diversity of all sections of the population and represent the plurality of views and opinions of the audience. All the provinces covered by RTV need to have their news and cultures represented on regional television. Furthermore, economic opportunities for television production should be spread across the country.

The Authority could require RTV licensees to ensure that their programming across the schedule as a whole and at prime time reflects the diversity of the South African provincial identities, cultures and characters in the region covered by RTV services. RTV should also ensure that programming is sourced (produced, commissioned or acquired) from different provinces within the region that it covers.

An interesting case study in this regard is that the Australian Broadcasting Authority (ABA) will be imposing new licence conditions on regional television licensees in the four aggregated markets of Regional Queensland, Northern New South Wales, Southern New South Wales and Regional Victoria. The licence conditions divide each aggregated marketer or licence area into a number of local areas, reflecting the different communities of interest within that market or licence area. All regional television licensees in these four aggregated markets will be required to broadcast material of local significance to meet a weekly average total of 120 points in each specified local area. Points will accrue on the basis of 2 points per minute for local news and 1 point per minute for most other types of local content, excluding paid advertising. Compliance will be assessed on the average score over a 6 week period with a proviso that the minimum requirement in any week is 90 points. Provision is made for material of local significance that is broadcast in more than

one local area within the aggregated market to be able to earn points in each local area. However, this is capped at 50% of the total points of any one local area. The ABA is of the opinion that this change will increase the likelihood that current affairs and other quality programming of significance to regional Australia will be produced<sup>4</sup>.

Furthermore, in its Position Paper on South African Content on radio and television, 2002, the Authority stated that the quotas for regional and community television will be determined during the process of drafting regulations for this sector. The inclusion of South African content in the programming schedules of broadcasters is both a social necessity and an economic opportunity for South Africa. South African produced programmes create a sense of pride and also create a competitive edge that relates to the unique cultural heritage and identity of South Africa. The potential economic benefits from the production of South African content for the television industry are considerable. The production of South African programmes will develop the South African production industry. With effect from 22 August 2003 the quota for public broadcasting services is 55% and for public commercial/commercial it is 35%.

***Q.7.a What options can the Authority consider to ensure that diversity and programming is sourced within the region covered by potential public, commercial and community RTV broadcasters?***

***Q.7.b Should the licence condition approach utilised by the ABA in terms of point allocation be considered as an option for encouraging regional diversity and programming?***

***Q.7.c What should be the overall South African content quota for public, commercial and community RTV services.***

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<sup>4</sup> ABA Update, Number 120, May 2003

## SECTION B

### PUBLIC REGIONAL TELEVISION BROADCASTING SERVICES

The purpose of this section is to explore the role that the introduction of public RTV broadcasting services can play in promoting economic growth in South Africa and the challenges that might arise in the introduction of such services, as these services will be competing for audience share with entrenched players in the market.

This section will also attempt to provide the Authority with the different models to consider when developing policy and licensing frameworks for public RTV.

### 8. APPROACH TO PUBLIC REGIONAL TELEVISION SERVICES

In approaching the introduction of public RTV services it is perhaps useful to consider the following quote from a study on “Television in the Nations and Regions” conducted by the United Kingdom’s Independent Television Commission. The report states that *“broadcasters must recognise their special relationship to our sense of community and national identity. One of the most effective ways in which they can do this is by enabling more programmes to be made both by the regions and –equally important – by companies within the regions for network transmission.”*<sup>5</sup> This quote highlights the critical need in South Africa for programming that is not solely driven by national interests or by a broadcasting services situated in the capital cities, but programming that is reflective of regional interests and which captures the diverse views of broadcasting services located in different cultural centres within South Africa.

The introduction of public RTV is important as it offers the opportunity to reflect the lives of people living in different regions and promote a sense of community in those regions. In addition to section 2 in the IBA Act which calls for the promotion of television services at regional level, further legislative guidance is given in this regard by the recently promulgated Broadcasting Amendment Act, Act 64 of 2002. This amendment to the Broadcasting Act provides that the SABC must apply to the Authority for a licence to provide additional

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<sup>5</sup> Independent Television Commission. Television in the Nations and Regions: Television broadcasting and production outside London.

television services, which broadcast regionally and in the languages appropriate to the language usage in the regions served by these services.

## **9. SABC APPLICATION FOR PUBLIC REGIONAL TELEVISION BROADCASTING SERVICES**

Section 22A (1) of the Broadcasting Act states that in the performance of its public service mandate under section (10)(a) and (b), the SABC must, within nine months of the commencement of the Broadcasting Amendment Act, 2002, apply to the Authority in terms of section 41(4) of the IBA Act, read with section 45(2) of that Act, to licence it to provide additional television services which broadcast-

- (a) regionally;
- (b) in such languages as are appropriate, having regard to language usage within respective regions served by the proposed services;
- (c) so as to ensure that between these regional services, broadcasting in the language of Sepedi, Sesotho, Setswana, isiSwati, TshiVenda, Xitsonga, Afrikaans, isiNdebele, isiXhosa and isiZulu is provided on an equitable basis.

Therefore, since the Broadcasting Amendment Act commenced on 7 March 2003, the SABC must apply for additional regional television services by 8 December 2003.

### **9.1 Licensing**

Section 22A specifically directs the SABC to apply to the Authority in terms of section 41(4) of the IBA Act, read with section 45(2) of that Act, to be licensed to provide additional regional television services. Section 41(4) merely indicates that subsection 3 applies to everyone who applies to the Authority for a broadcasting licence. Section 41(3) therefore requires the SABC to provide the particulars of the proposal in relation to the nature and licence area of the service which, with due regard to section 45, may be reasonably necessary in order to enable the Authority to properly consider the application, and shall be accompanied by the prescribed application fee.

*Q.9.1.a What factors should the Authority take into consideration in determining an appropriate licence application fee for public RTV?*

Section 45 (2) provides that in the event of the Authority considering the granting of a new public broadcasting licence it shall, with due regard to the objects and principles as enunciated in section 2, *inter alia* take into account-

- (a) the demand for the proposed broadcasting service within the proposed licence area;
- (b) the need for the proposed service within such an area, having regard to broadcasting services already existing therein; and
- (c) the technical quality of the proposed service, having regard to developments in broadcasting technology.

## **9.2 Programming**

In considering the introduction of public RTV services, the Authority must also consider the public broadcasting imperatives set out in section 8(d) of the Broadcasting Act, which requires the SABC to provide, in its public broadcasting services, radio and television programming that informs, educates and entertains.

Section 22A of the Broadcasting Act refers to section 10(1) which requires the public service of the SABC to:

- (a) make services available in all the official languages;
- (b) reflect both the unity and diverse cultural and multilingual nature of South Africa and all its cultures and regions to audiences;
- (c) strive to be of high quality in all of the languages served;
- (d) provide significant news and public affairs programming which meets the highest standards of journalism, as well as fair and unbiased coverage, impartiality, balance and independence from government, commercial and other interests;
- (e) include significant amounts of educational programming, both curriculum-based and informal educative topics from a wide range of social, political and economic issues, including, but not limited to, human rights, health, early childhood development, agriculture, culture, religion, justice and commerce and contributing to a shared South African consciousness and identity;
- (f) enrich the cultural heritage of South Africa by providing support for traditional and contemporary artistic expression;
- (g) strive to offer a broad range of services targeting, particularly, children, women, the youth and the disabled;

- (h) include programmes made by the Corporation as well as those commissioned from the independent production sector; and
- (i) include national sports programming as well as developmental and minority sports.

*Q.9.2.a What other obligations if any should public RTV have?*

## **10. FUNDING**

Internationally public regional broadcasting is funded through a mix of licence fees and a limited amount of advertising. Section 22(2) and (3) of the Broadcasting Act, states that the regional services provided by the Corporation must be funded by money appropriated by Parliament and may draw revenue from grants, donations and sponsorships and that the Authority must determine the extent to which these services may draw revenue from advertising.

*Q.10.a What funding model should be applied to public RTV services?*

## **11. DEFINING PUBLIC REGIONAL TELEVISION**

Public RTV is not defined in the IBA Act or the Broadcasting Act. Section 22A (1) only indicates that the services must broadcast regionally, in languages appropriate to the region being serviced and that broadcasting in the language of Sepedi, Sesotho, Setswana, isiSwati, TshiVenda, Xitsonga, Afrikaans, isiNdebele, isiXhosa and isiZulu must be provided on an equitable basis. It is suggested that the term region can mean more than one province. It is also apparent that the emphasis placed on languages in Section 22A(1) should be considered when defining regions for the purposes of public RTV services.

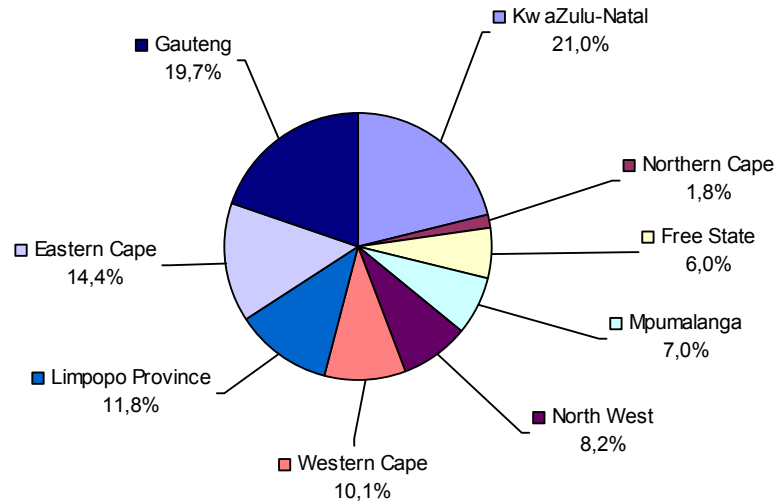
Currently, South Africa has a population of 44,8 million.<sup>6</sup> The province with the most people is KwaZulu-Natal (9,4million), followed by Gauteng (8,8 million) and Eastern Cape (6,4 million). Northern Cape, although it is the largest province has only 0.82 million inhabitants (see Table 1).

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<sup>6</sup> Census 2001



## Percentage of the Population in each province - 2001



**TABLE 1**

**Total population = 44.8**

**Source: Census 2001**

In terms of language use, the most common language spoken in South Africa is isiZulu, been spoken by 23.8% of people, followed by isiXhosa, 17.6% and Afrikaans at 13,3%. Table 2 indicates the percentages which the 11 official languages are spoken in the 9 provinces. Public RTV as implemented by the SABC will need to consider how many services and what regions will need to be covered to meet the requirements of the Broadcasting Act.

*Q.11.a In your opinion what regions should public RTV cover in order to meet the unique language demands of the different regions in South Africa?*

*Q.11.b How should the provinces be divided between the different public RTV services in order to be sustainable?*

**TABLE 2: Languages spoken in the Provinces in South Africa**

Language	Eastern Cape	Free State	Gauteng	KwaZulu-Natal	Limpopo	Mpumalanga	Northern Cape	North West	Western Cape	South Africa
Afrikaans	9,3	11,9	14,4	1,5	2,3	6,2	68,0	7,5	55,3	<b>13,3</b>
English	3,6	1,2	12,5	13,6	0,5	1,7	2,5	1,2	19,3	<b>8,2</b>
isiNdebele	0,1	0,4	1,9	0,2	1,5	12,1	0,1	1,3	0,0	<b>1,6</b>
isXhosa	83,4	9,1	7,6	2,3	0,3	1,5	6,2	5,8	23,7	<b>17,6</b>
isiZulu	0,8	5,1	21,5	80,9	0,7	26,4	0,3	2,5	0,2	<b>23,8</b>
Sepedi	0,0	0,3	10,7	0,1	52,1	10,8	0,1	4,2	0,0	<b>9,4</b>
Sesotho	2,4	64,4	13,1	0,7	1,3	3,7	1,1	5,7	0,7	<b>7,9</b>
Setswana	0,0	6,8	8,4	0,1	1,6	2,7	20,8	65,4	0,1	<b>8,2</b>
Siswati	0,1	0,3	1,4	0,1	1,1	30,8	0,1	0,6	0,0	<b>2,7</b>
Tshivenda	0,0	0,1	1,7	0,0	15,9	0,2	0,0	0,5	0,0	<b>2,3</b>
Xitsonga	0,0	0,3	5,7	0,0	22,4	3,8	0,0	4,7	0,0	<b>4,4</b>
Other	0,2	0,2	1,0	0,4	0,3	0,3	0,7	0,6	0,4	<b>0,5</b>
<b>Total</b>	<b>100,0</b>	<b>100,0</b>	<b>100,0</b>	<b>100,0</b>	<b>100,0</b>	<b>100,0</b>	<b>100,0</b>	<b>100,0</b>	<b>100,0</b>	<b>100,0</b>

Source: Census 2001

## **12. INTERNATIONAL PRECEDENT**

In general, research conducted on European countries has not shown any regional television service that broadcast a full day (18 to 24 hours) service. Many central European countries have a number of small television stations which broadcast a few hours a day and are linked up with larger companies to provide a sustainable service, for instance, Independent Television Stations (ITV) in the United Kingdom and regional centres in France, which are linked up with the French National Broadcaster (TF1). Countries which, amongst others, can be considered when developing a public regional television broadcasting services model for South Africa are the United Kingdom, Denmark, France, Germany, Nigeria and Poland.

### **12.1 United Kingdom**

In the United Kingdom (UK), public regional television is broadcast by the public broadcaster, the British Broadcasting Corporation (BBC), as part of its mandate. The BBC is the largest UK broadcaster. It runs two national television channels (with national and regional sub-divisions), five national radio stations, cable and digital TV channels, and more than 40 local radio stations. Additionally, the Corporation has global enterprises in both television and radio, as well as a broadcast monitoring service, and is Europe's most visited content web site.

In a study conducted by the United Kingdom's Independent Television Commission (ITC) and the Broadcasting Standards Commission (BSC) on whether regional identity and regional broadcasting are still regarded as being important in today's global society, it was found that the audience felt that both national and regional identities are crucial and that regional broadcasting is critical in ensuring that they stay alive.

The study also showed, that the audience felt that the following principles and views should be adhered to in regional broadcasting, namely that:

- quality is more important than quantity;
- regional news is essential and valued by everyone. For most people it is the main source of information about the area in which they live;
- aside from the news, viewers are most interested in regional current affairs, regional sport and local history programmes;

- regional broadcasting should not be left solely to public broadcasting services; neither do they want it relegated to a separate digital channel. They feel that it is important to retain it on free-to-air channels where people can ‘stumble’ across it; and that
- the need for investment and competition to keep regional television lively and healthy is recognised<sup>7</sup>.

Essentially, a regional window model is followed in the United Kingdom for public RTV services, managed by the public broadcaster.

## 12.2 Nigeria

Nigeria has one of the most competitive television industries in Africa. Mass media/radio and television broadcasting industries have spread very fast in Nigeria, motivated by politics and education. Technological reasons could also be added as these have enabled the fast proliferation of radio and TV stations in Nigeria during the past 30 years. TV transmission began in Western Nigeria in 1959 and a year later the Eastern Nigerian TV service was established. The Federal Government established the Nigerian Television Service in Lagos in 1962. The development of television broadcasting reflected regional and federal politics and desires. Each of the 21 Nigerian states opted for their own radio and television stations. Over the past 25 years 34 television stations were established in Nigeria at a rate of 1.5 stations per year. Nigeria can claim to have the fourth largest television network in the world, with a constantly growing staff and the figure of imported programming going constantly down. There is increased diversity of choice of TV channels and oil revenues have assisted in increasing the number of television sets. In the mid-seventies Nigeria claimed that 87 per cent of the population had access to TV programmes. There are currently 80 television channels operating Nigeria (including provincial and regional stations).<sup>8</sup>

The regulatory authority is the National Broadcasting Commission (NBC). The NBC was established in 1992 with the deregulation of the broadcasting industry by Decree 38. The NBC’s primary function is to regulate and supervise the industry. Public broadcasting is done by the Nigerian Television Authority (NTA) which was established in 1977 and brought all ten existing television stations under the control of the Federal Government of Nigeria. It

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<sup>7</sup> Sancho, J. 2002. *Pride of Place: What viewers want from regional television*. An ITC Research Publication

<sup>8</sup> Nigeria Country Profile. <http://www.africafilmtv.com>

also created 9 more. By proclamation of Decree 24, the Nigerian Television Authority became the only institution empowered to undertake television broadcasting in Nigeria. This exclusive right was later removed in the 1979 Constitution, but it was only after the establishment of the National Broadcasting Commission in 1992 that private broadcasters were licensed for the first time in 1993. There now approximately 27 stations operated by the publicly run network, the NTA, and under the NTA, 25 of Nigeria's 30 constitutional states operate their own TV stations (18 of these stations are TV Africa affiliates)<sup>9</sup>. It can be argued that only four of the NTA regional stations are commercially viable as the others require funding by the NTA in order to survive. In addition to this, South African companies Orbicom and Sentech who have both participated in the establishment of infrastructure for new commercial broadcasters in Nigeria have reported numerous interference problems based on poor frequency planning and the location of transmitters serving the same coverage area on different high sites.

TV Africa is a content provider for 18 public television stations operated by states in Nigeria. TV Africa acquires and produces programming which is broadcast free to air through its existing 39 affiliates operating in 23 sub-Saharan countries. Its main operating office is based in Johannesburg where the programming is packaged and transmitted to the affiliates via satellite. The affiliates which are locally-licensed television stations then re-broadcast the signal free-to-air using their own transmission equipment. TV Africa offers its affiliates free programming in exchange for free advertising airtime slots.

Each television station in Nigeria has a mandatory 40% local programming requirement. The lack of independent production houses makes this figure difficult to achieve. Existing independent production houses suffer from a lack of funding as they are mostly reliant on funding for major projects from multinationals, foreign aid or the Government<sup>10</sup>.

### **12.3 Denmark**

In Denmark broadcasting is regulated by the Radio and Television Board which is appointed by the Minister of Culture to regulate and supervise the broadcasting industry. Television is dominated by Danmarks Radio (DR), TV2, Kinnevik-owned TV3 and 3+, and TvDanmark (a network of eight local stations relying on SBS investments). DR is a public broadcasting organisation, which provides both radio and television services and could be described as

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<sup>9</sup> Source: National Broadcasting Commission. <http://www.nbc-nig.org>

<sup>10</sup> Source: Nigeria Country Profile. <http://www.africafilmstv.com>

the Danish equivalent to the BBC. By law DR must serve the entire population in accordance with quite an extensive act governing the content of programming.<sup>11</sup>

The appearance of a competing channel resulted in a fundamental change in the conditions under which DR operated. When TV2 came on the air in autumn 1988, the channel attracted a sizeable share of DR's viewers. In response to this competition, DR adapted its programme policy to the new conditions and launched a second channel on September 1, 1996. The original channel, DR1, still offers a broad range of programmes, while the new channel, DR2 which today only transmits in the evening, offers more specialised programmes.

TV2 operates much like a public free-to-air channel and offers regional windows. One fifth of the funding for TV2 comes from the licence fee, with the remainder from advertising revenues. The legislative requirements for TV2 are less extensive than those set out for DR. Yet, the responsibility for "keeping up quality, balance and diversity" counts for both channels, and like DR, TV2 is obliged to participate in Danish film production and can thus be considered a public service channel.<sup>12</sup>

As set out in law, TV2 is organised in what is known as an enterprise system, whereby a good share of programme production is outsourced to independent production companies and eight independent regional affiliates, each of which offers regional services from 07h30 and 19h00 and late night programmes to the regional audiences as well as contributing to the national programme.

Prior to the introduction of TV2 with its regional windows, weekly viewing time stood at 9 hours 46 minutes. By 1989, this figure climbed to 10.5 hours. Almost 10 years later (1998), the average viewing time per week rose to 19 hours 1 minute and within households receiving satellite channels to 20 hours 34 minutes.

When comparing this to the national stations, we find that TV2's total market share (percentage of total viewing time) in 1998 was 38 per cent compared to DR's 21 per cent and TV3's 11 per cent.

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<sup>11</sup> Jauert, P. & Prehn, O. 2000. Danish Media Landscape. The Netherlands: European Journalism Centre. <http://www.ejc.nl>

<sup>12</sup> Source: Denmark – Culture and Mass Media. <http://www.um.dk/english/danmark/danmarksbog/kap4/4-13-5.asp>

Figures show that Danish viewers prefer Danish channels, compared to international satellite channels. Not only is the market share of Danish channels high, but another expression of the viewers loyalty to Danish programmes is the fact that all the top ten television programmes in 1998 were national productions.

The popular view in Denmark is that regional television assists in promoting the cultural identity of different minority population groups, namely Scandinavian, Inuit, Faroese, German, Turkish, Iranian and Somali. Programming on regional windows does address minority language needs. Five languages are spoken in Denmark, namely, Danish, Faroese, Greenlandic (an Inuit dialect), English and German (small minority). As in South Africa, English is the predominant second language<sup>13</sup>.

## 12.4 France

The Broadcasting Regulator in France is the Conseil supérieur de l'audiovisuel (CSA), a statutory body established on 17 January 1989. It has dual role, namely to guarantee and promote broadcasting freedom in France both on radio and television. Its main responsibilities are to:<sup>14</sup>

- ensure the respect of pluralism by ensuring that information is true;
- allocate radio and television airtime during election campaigns;
- allocate frequencies to the various operators;
- monitor the airwaves used by television and radio stations;
- supervise what is broadcast to ensure human dignity; and
- ensure that the presumption of innocence and protection of children are respected.

In France, public RTV is only offered on France 3. RTV broadcasting services have been established in France for more than twenty years. RTV is provided through regional centres in the main cities of France by being broadcast on regional "windows" within a national grid of programmes. Its main characteristic is the provision of regional programming including news. Despite small differences France like Denmark has followed the model of providing "windows" for RTV broadcasting services on its national channels. The funding model adopted for the public RTV broadcasting services is a mix of government funding and limited advertising revenue<sup>15</sup>.

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<sup>13</sup> Source: Weekly Telegraph. <http://www.telegraph.co.uk/global/main.jhtml?xml=/global/2002/04/18/profden.xml>

<sup>14</sup> Source: <http://www.cas.fr/english/introduction>

<sup>15</sup> Source: <http://www.museum.tv/archives/etv/F/htmlF/france/france.htm>

In addition to the funding model, the following conditions apply in terms of programming requirements:

- the services must broadcast in regional or minority language;
- advertising must represent only 20 % of the total budget of the service; and
- the services as a whole must broadcast a total of 220 hours/annum of minority language.<sup>16</sup>

## 12.5 Germany

The German Federal government introduced a dual broadcasting system which implies that private broadcasters could operate alongside the public operators. The government also indicated how responsibilities for broadcasting should be separated by giving the different states the responsibility of regulating broadcasting in their respective states (Länder). The Länder's responsibilities are to:

- make decisions on the organisational structure and financing the public broadcasting corporations;
- the licensing of private television broadcasters; and
- issuing directives on the content of programmes within the framework of the constitutional mandate.

When dual-broadcasting system was introduced, public broadcasters in Germany formed public corporations. These are: Bayerischer Rundfunk, Hessischer Rundfunk, Mitteldeutscher Rundfunk, Norddeutscher Rundfunk, Ostdeutscher Rundfunk Brandenburg, Radio Bremen, Saarländischer Rundfunk, Sender Freier Berlin, Süddeutscher Rundfunk, Südwestfunk, Westdeutscher Rundfunk. The corporations form a national association known as the Association of Public Broadcasting Corporations of Germany(ARD). The programmes are fed by all the corporations and broadcast both terrestrially and via cable throughout the country. The state corporations also provide a regional terrestrial television programme in their respective transmission area. This is known as Channel III as Channel II programmes fall within the Second German Television(ZDF). ZDF is a channel established and run jointly by all the states.

RTV in Germany is characterised by regional programming. It is carried on Channel III through a dedicated window between 17h40-20h00.

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<sup>16</sup> Mendel, T. 2000. Public Service Broadcasting: A Comparative Legal Survey. Kuala Lumpur: UNESCO. <http://www.unesco.org/webworld/publications/mendel/france.html>



The Germans have three models for RTV:

- a network of independent broadcasters – broadcasters operate jointly to buy programming;
- a “mantle” or collaboration between broadcasters and newspapers – regional news reporting provided by local newspapers; and
- public access channels – platforms for individuals to produce and distribute their own programming. Currently there are 27 public access channels in eight cities of Germany which serve local markets.

The German Federal Constitution appears to view RTV as being quite important by stipulating that the sole responsibility for broadcasting rests with the states (Länder) of the Federal Republic as part of their ‘cultural sovereignty’. The organisational and legal structure of all other broadcasting corporations is defined in Länder laws and, if more than one state is involved, in agreements between several or all Länder (e.g. ZDF). Because of this, the public service broadcasters are a creation of the Länder.

The public service broadcasting organisation (Anstalt) in Germany resembles to some extent the BBC system. The typical Anstalt provides a region, usually a Länder, with public service radio and television (such as WDR in Northrhine-Westphalia or BR in Bavaria). NDR is the joint corporation for the Northern Länder (Schleswig Holstein, Hamburg, Lower Saxony, Mecklenburg-Vorpommern). All regional corporations together founded the ARD (Arbeitsgemeinschaft der Rundfunkanstalten Deutschlands) and contribute according to their size to the first TV channel. In addition they independently organise a regional programme that offers regional news and more culturally and educationally oriented programming.

The public corporations have a system of mixed funding. They receive a proportionate share of the revenue from licence fees. These funds can be supplemented to a limited extent by income from advertising. With regards to advertising, corporations are subject to heavier restrictions than private broadcasting.<sup>17</sup>

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<sup>17</sup> Source: Kleinsteuber, J. & Thomaß, B. 2000. The German Media Landscape. The Netherlands: European Journalism Institute. <http://www.ejc.nl>

## 12.6 Poland

The National Broadcasting Council (“National Council”) was established as the broadcasting industry regulator in terms of Article 5 of the Broadcasting Act, 1992. The National Council’s mandate is to safeguard freedom of speech in radio and television in radio and broadcasting, protect the independence of broadcasters and the interests of their public, as well as ensure an open and pluralistic nature of radio and television broadcasting.<sup>18</sup>

The Polish broadcasting landscape is made up of 250 national and regional radio stations and about 70 television stations. Public television (TVP S.A.) operates two national channels with 11 regional offices broadcasting local programming and special ethnic minority television programmes produced in the minority languages by regional stations. Competition comes from the national commercial channels. These are Polsat TV, TVN (ITI Holdings) and Channel 4. There is also Catholic Puls TV, coded RTL 7, Canal Plus, and Wizja TV, and approximately 500 cable television operators with more than 2 million subscribers. The cable operators are obliged by law to transmit two public channels.<sup>19</sup>

RTV in Poland is broadcast through regional centres. The purpose of these centres is to create special forums where public debates about regional problems and the functioning of local and national government are discussed. In the main, regional programming consists of local news, special reports, documentary, touring, educational programmes, children’s and magazine programming. The audience reach of RTV is approximately 82% of Poland’s population and it broadcasts a total of around 730 hours of programming.

## 12.7 Lessons learnt from International Precedent

The international survey demonstrates that RTV “windows” for public RTV broadcasting services are commonly made available on national channels, in many cases by the public broadcaster. In 1996, the SABC pioneered the regional television model in South Africa. When it was introduced, it was divided into provinces: Cape at Six in the Western Cape, Mopani targeting Limpopo Province and Mpumalanga and KZN-2-Nite in KwaZulu-Natal. These programmes were splits from the SABC 2’s network on weekdays to broadcast news

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<sup>18</sup> Broadcasting Act, 1992, adopted by the Polish Parliament

<sup>19</sup> Pieklo, J. 2002. The Polish Media Landscape. The Netherlands: European Journalism Centre. <http://www.ejc.nl>

and information specifically focused on and in languages of the targeted provinces. This service was later discontinued due to financial constraints.

It is also clear that in most countries, the main rationale for the existence of public RTV broadcasting services is that these services encourage national and regional diversity, and provide opportunities for minority languages to be given coverage. Therefore, regional broadcasting television services are provided by free-to-air broadcasters rather than by subscription services. South Africa has in common with these countries the desire to encourage regional diversity and create opportunities for certain languages, such as the marginalized indigenous official languages that are spoken by large sections of the population in certain regions.

***Q.12.a Taking into account the specificities of the South African context, what model or models should the Authority develop for public RTV?***

***Q.12.b What economic benefit if any would public RTV bring to South Africa?***

***Q.12.c How can public RTV accommodate the need of the community to articulate regional interests?***

***Q.12.d What distinctive features should public RTV have in terms of their programming strands?***

## SECTION C

### COMMERCIAL REGIONAL TELEVISION SERVICES

As mentioned previously section 2 in the IBA Act places an obligation upon the Authority to promote the introduction of a diverse range of television services at national, regional and local level. Parliament has directed in recent amendments to the Broadcasting Act that the SABC apply to the Authority for a licence to provide additional television services that broadcast regionally and in terms of its public mandate. Section 2 in the IBA Act, further indicates that when considering the introduction of televisions services at national, regional and local level, the Authority must at each of these levels attempt to promote public, commercial and community broadcasting services which are responsive to the needs of the public and which promote national and regional identity, culture and character. It is for this reason that the Authority should consider the public demand and financial viability of introducing commercial RTV broadcasting services.

One of the reasons identified for the raising of the BBC's standards of regional coverage in the United Kingdom, is that Independent Television (ITV) provided competition at a regional level for viewership and advertising. The introduction of a commercial RTV broadcasting service or services could have a similar impact on the public RTV services that will be offered by the SABC.

### 13. LEGISLATIVE FRAMEWORK

The legislative framework guiding the Authority in its inquiry into commercial RTV broadcasting services is contained in the IBA Act and the Broadcasting Act.

#### 13.1 Licensing

In terms of section 46(1) of the IBA Act in considering an application for a commercial broadcasting licence, the Authority shall with due regard to the objects and principles enunciated in section 2, *inter alia* take into account:

- (a) the demand for the proposed broadcasting service within the proposed licence area;

- (b) the need for the proposed service within such licence area, having regard to the broadcasting services already existing therein;
- (c) the expected technical quality of the proposed service, having regard to developments in broadcasting technology;
- (d) the capability, expertise and experience of the applicant;
- (e) the financial means and business record of the applicant;
- (f) the business record of each person who, if a licence were granted to the applicant, is or would be in a position to control the operations of the applicant either in his or her individual capacity or as a member of the board of directors or top management structure;
- (g) the applicant's record and the record of each person referred to in paragraph (f), in relation to situations requiring trust and candour;
- (h) whether the applicant is precluded by or in terms of section 48, 49, 50 or 51 from holding a broadcasting licence; and
- (i) whether either the applicant or the person referred to in paragraph (f) has been convicted of an offence in terms of this Act.

### **13.2 Programming**

Legislative guidance is also given in the Broadcasting Act, with regards to the type of programming a commercial broadcasting service is expected to provide. Section (30)(1) states that commercial broadcasting services when viewed collectively-

- (a) must as a whole provide a diverse range of programming addressing a wide section of the South African public;
- (b) must provide, as a whole, programming in all South African official languages;
- (c) may provide programming in languages other than South African official languages, where the Authority is convinced that such services can be commercially viable; and
- (d) must within a reasonable period of time be extended to all South Africans and provide comprehensive coverage of the areas which they are licensed to serve.

If a commercial RTV service chose to be a free-to-air broadcaster it would also be guided by section 30(2) which states that the programming provided by free-to-air broadcasting must as a whole-

- (a) reflect the culture, character, needs and aspirations of the people in the regions that they are licensed to serve subject to licence conditions;
- (b) provide an appropriate significant amount of South African programming according to the regulations of the Authority;
- (c) include news and information programmes on a regular basis, including discussion on matters of national and regional, and where appropriate local, significance: and
- (d) meet the highest standards of journalistic professionalism.

This is further amplified by section (30) (4) which states that –

“The programming provided by free-to-air television broadcasting services must as a whole include levels of South African drama, documentaries and children’s programmes that reflect South African themes, literature and historical events, as prescribed by regulation”.

The above sections emphasise the importance of reflecting South African culture on our airwaves and that even though a commercial free-to-air broadcaster’s main purpose is to make profit, they are also expected to broadcast diverse programme genres including South African drama, children’s programming, news and documentaries.

## **14. POTENTIAL MARKET DEMAND**

The South African television broadcasting system is dominated by the SABC’s free-to-air services. SABC currently has a market share of 60% and in terms of coverage, covers about 73% of the country.<sup>20</sup> This will make it difficult for new commercial RTV licensees to enter the market, especially when the new public RTV broadcasting services begin operation.

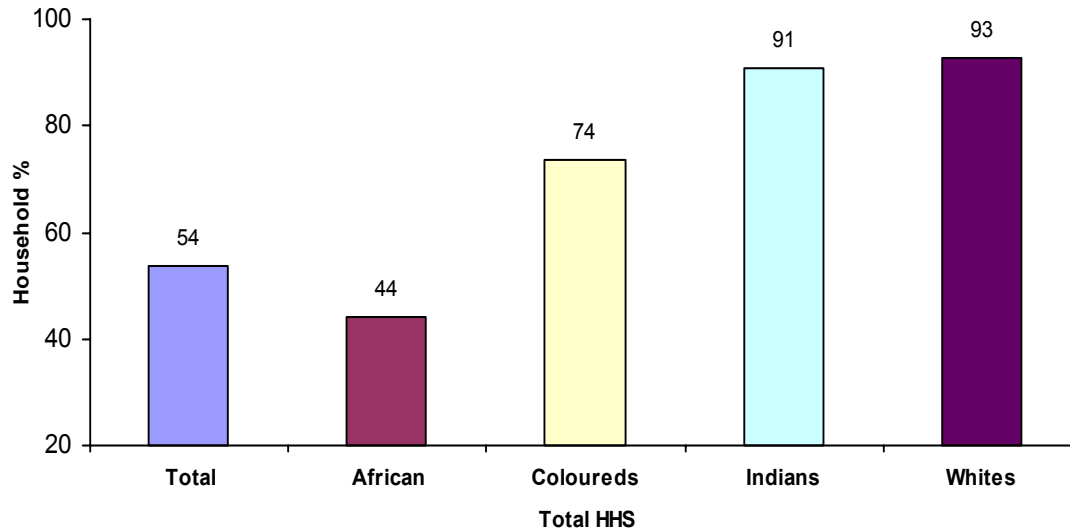
Currently 54% of South Africans have access to television, out of this 44% is African, 74% is Coloured, 91% is Indian and 93% is White (see Table 3). New entrants to the market would have to compete for a market share of these television households. There is a general assumption that an increase in a number of suppliers of a product or service and the concurrent increase in supply of the good itself are typically associated with a corresponding increase in demand and consumption of that product. This assumption, however, does not appear to be true for the television broadcasting industry, as the

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<sup>20</sup> AMPS 2002B

relationship between an increase in supply of the good does not lead to a corresponding increase in television viewing consumption as it typically does in other industries<sup>21</sup>.

**Table 3 - Television Households in SA**



**Source AMPS 2002B**

There is a view that in television broadcasting an increase in channels and hours of viewing tends to fragment the audience rather than increase consumption by the audience. This in turn has an impact on the average size of audience for each channel. Some existing industry stakeholders argue that until there is a growth in the number of television households in South Africa, the introduction of new television broadcasting services will merely serve to fragment or reduce the audiences of current television services. A counter argument is that the new entrants to the market will increase competition, increase diversity and result in a drive towards higher quality programming to attract audiences and advertisers.

When television was introduced in South Africa it spread rapidly throughout the country. However, because of the historical legacy of South Africa, financial, demographic and other reasons, access to television has been uneven. Table 3 shows that White, Indian and Coloured television households have shown little growth in the past decade and appear to

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<sup>21</sup> Picard, Robert. Expansion and limits in EU Television Markets: Audience, Advertising and Competition Issues: Paper Presented to the workshop on Competition in Media and Advertising Market, University of Aix Marseille-II, France, October 12-13, 2001

have reached their highest point. In contrast African households with since 1994 have increased from 41.9% to 59.3%. As can be seen in table 3 there is still considerable room for substantial growth in African television households<sup>22</sup>.

It is true that in South Africa radio is still the main medium that reaches the poor, but television appears to be making inroads into this market. In India, not only have television audiences caught up with radio, they have now exceeded radio. However, the lack of electricity in rural areas in South Africa does hamper the expansion of television and ensure that radio continues to play a special role in rural communities<sup>23</sup>.

Although African television households are the only households that still show a potential for further growth, there are no corresponding quantities of quality indigenous language programming being targeted at these households. This would appear to indicate that new entrants focusing on quality programming for Nguni and Sotho speaking viewers might make inroads on traditional viewership patterns and be well-positioned to take advantage of the growth in African television households.

**TABLE 4 – TV HOUSEHOLD BY POPULATION GROUP ('000)**

	1994	1995	1996	1997	1998	1999	2000	2001	2002A
<b>TOTAL</b>	4,607	4,877	5,224	5,232	5,310	5,416	6,286	6,459	6,661
<b>Whites</b>	95.7	96.2	96.5	94.5	95.2	95.7	96.2	95.8	96.3
<b>Coloureds</b>	81.3	83.6	84	81.3	81.5	81.7	83.7	84.4	83.3
<b>Indians</b>	95.8	95.5	96	97.1	96.1	95.4	95.7	95.4	95.5
<b>Africans</b>	41.9	43.8	48.3	49.2	50.3	57.1	56.4	57.9	59.3

**SOURCE: AMPS2002A**

*Q.14.a What is your view on the assumption that an increase in a number of suppliers of a product or service will not increase television viewing consumption but instead will further fragment viewership?*

<sup>22</sup> van Vuuren, D. Media usage and democracy: What happened in South Africa. Article based on a paper read at a WAPOR Regional Conference in Cape Town, May, 2003. p.10.

<sup>23</sup> van Vuuren, D. Media usage and democracy: What happened in South Africa. Article based on a paper read at a WAPOR Regional Conference in Cape Town, May, 2003. p.10



*Q.14.b What is your the view on the assumption that the growth in African television households creates opportunities for new entrants?*

*Q.14.c What other opportunities exist for new entrants at regional level? If possible, support your reply with economic data?*

## **15. ADVERTISING REVENUE**

The advertising revenue of the Public Broadcasting Service (PBS) channels (SABC1, 2 and 3) has remained relatively static over the past years by an average of 3.6% between 1995 and 2000. It is anticipated that as competition from e-tv intensifies, both the SABC and M-net will lose their current share of the advertising cake. Already, M-net's share of advertising revenue is on a downswing, and this trend is likely to continue as the channel's high end subscribers migrate to the DTH platform and also from competitive inroads made by e-tv.<sup>24</sup>

Introducing new entrants into the market will have the positive effect of providing audiences with a wider choice of television channels, thus increasing their programming choice. However, the introduction of new services will also fragment the audiences further and intensify competition for market share and advertising cake. The introduction of new entrants could therefore increase the speed at which the SABC and M-Net are losing their current share of advertising revenue and could also negatively impact on e-tv's growth.

*Q.15.a What percentage of the market share do you think these new commercial RTV services will target?*

*Q.15.b Stakeholders have identified possible barriers to entry such as market share, acquisition of programmes and frequencies. What other barriers to entry will affect new entrants to the market?*

*Q.15.c Do you think the current economic environment can support new entrants? If possible support your reply with economic data?*

*Q.15.d What opportunities exist for commercial RTV to draw new advertisers to television, for example regional/local advertisers who currently use only newspaper or radio as a advertising medium?*

## 16. INTERNATIONAL PRECEDENT

Internationally, most commercial RTV services are classified under public broadcasting services, with the exceptions of countries such as Australia and the United Kingdom.

### 16.1 United Kingdom

The main competition to BBC television comes from the Channel 3 companies; known as Independent Television (ITV). ITV consists of fifteen (15) regionally based franchisees who provide both local and national (network) services. ITV's share of television audience in 2000-2001 was just under 29 per cent.

ITV companies produce well over 6,000 hours of original programming each year and ITV local television news programmes assist in creating and sustaining a sense of community within the regions. In total ITV broadcasts over 5,000 hours of regional news, through a total of 27 separate local services covering the 15 licence areas. Also at least 90% of ITV1's regional programmes are produced in the region for which they are commissioned. This is in keeping with the law introduced in the 1990's that required both the BBC and ITV to buy 25% of their programming from independent producers. Approximately a fifth of the most popular TV programmes on both the BBC and ITV are made by independents.

ITV's nationally networked programmes are also made throughout the country, with approximately half of all commissioned programmes being produced outside of London. ITV companies have studios across the United Kingdom, which sustain television programme production and employment in the regions. The ITV companies are seen as crucial to creating income in Wales and Scotland. For example in Wales, ITV's direct activities support 670 full time employment jobs and result in £12 million of disposable income within the Welsh economy.

Most viewers are of the opinion that ITV is vital in keeping regional identities alive, providing employment opportunities in the regions and developing talent. The quality of ITV's regional coverage is also seen as being one of the main reasons that the standard of BBC's regional coverage has been raised in recent years<sup>25</sup>.

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<sup>24</sup> ICASA's Economic Feasibility study on "additional subscription broadcasting services", 2001.

<sup>25</sup> Bromley, M. 2001. The British Media Landscape. The Netherlands: European Journalism Centre. <http://www.ejc.nl>

## 16.2 Australia

A framework for the licensing of commercial television services was first established in Australia by the Television Act, 1953 and the first commercial television broadcasting licences were granted in 1956 in both Sydney and Melbourne, followed by national services in Sydney and Melbourne. The introduction of commercial television services to other capital cities and regional areas was a staged approach. Under the television ownership limitations in effect at that time a person was prohibited from owning more than one station in any capital city of more than two stations in Australia (the two station rule).

In 1959, an invitation to apply for commercial television licences to serve the major areas of regional Australia was issued. Preference was given to local applicants not associated with the metropolitan stations, provided they could demonstrate their capacity to provide a service comparable to that available to city viewers. This resulted in all the major regional centres across Australia being serviced by one commercial broadcasting service and the public broadcaster. At that point commercial RTV licensees faced little or no competition from other television services, but they were subject to high levels of regulation designed to ensure that services were adequate and comprehensive. However, by the 1980's there had been mounting pressure for reform through the use of competition rather than regulation to ensure local relevance of commercial RTV broadcasting services.<sup>26</sup>

This led to the Australian government attempting to address the lack of diversity and competition in RTV through a process called aggregation. This process began with the introduction of the Broadcasting Amendment Bill, 1986. The aims of the Bill (known as the "equalisation" objectives) were:

- to provide three commercial television services in most of regional Australia;
- to ensure that commercial television services provided in the regions were comparable to those in the capital cities;
- to create larger, more viable television markets (called approved markets) in regional Australia; and
- to encourage competition between the RTV operators.

The Australian government identified two alternative paths for commercial RTV broadcasting licensees to approach equalisation. They were:

- direct aggregation – which involved the consolidation of single service licence areas into one larger licence area (called an “approved market”) with a sufficiently large population base to support three competing commercial RTV services; and
- multi-channel services – whereby existing licensees would be permitted to broadcast one or two additional commercial television services within their existing licence areas.
- Although two options were provided, from the government perspective aggregation was the preferred option, as it was perceived as introducing competition into the RTV market more quickly than a multi-channel approach.

To facilitate aggregation, a process of licence consolidations took place to ensure that each approved market area was, at the end of the process served by three competing commercial television services comparable to those in the capital cities. This resulted in each of the three licensees in a market entering into a programme supply agreement (or network affiliation agreements) with one of the three metropolitan commercial television networks. Commercial regional television is carried by networks (seven, nine and ten) in Australia.

Commercial RTV broadcasters are still regulated, despite the introduction of competition and have the following programme requirements:

- Children's programming
- Australian drama
- Regional News
- Current affairs.

In addition to this, broadcasters are subject to an advertising limit of 20% of transmission time<sup>27</sup>.

### **16.3 Nigeria**

After fifty years of government monopoly, the first private broadcasters began operating in 1991 in Nigeria. Two years later the first official private broadcast licences were issued. Now Nigeria's television industry is the most competitive in Africa. The licensing of private broadcasters began in 1992 following the establishment of the National Broadcasting Commission (NBC). By 1996 14 private TV stations, 30 cable/satellite re-distribution

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<sup>26</sup> Peter, B. Television Broadcasting in Australia. Australian Film Commission. <http://www.afc.gov.au/GTP/wftvishistory.html>

<sup>27</sup> Source: Australian Broadcasting Authority. <http://www.aba.gov.au>

operators and two satellite TV stations were licensed. Owing to the deteriorating economic situation in the country by mid-1996 only seven of the stations were still on air. Private regional stations operational in Nigeria include AIT (Lagos and environs), Galaxy TV (Western Nigeria), and Minaj TV (Eastern Nigeria)<sup>28</sup>. Nigeria has a mandatory 40% local programming requirement, which is reduced to 20% for pay-TV retransmission stations.<sup>29</sup>

## **17. LESSONS LEARNT FROM INTERNATIONAL PRECEDENT**

The lessons learnt from the United Kingdom is that commercial regional television can provide stimulating or constructive competition for the public regional broadcasting services, in the sense that competition has the effect of promoting high quality standards in programming to attract viewers and advertising revenue. It has also demonstrated the success of the network model in terms of a combination of national and regional programming and the positive economic impact regional stations have had on the regions.

In Australia the commercial regional television services have also evolved into a network model, similar to that of ITV in the United Kingdom. The main difference of course being that unlike the United Kingdom there is more than one network. The Australian example has also shown that it is preferable to create larger more viable television markets, by expanding the scope of the area covered by a commercial regional television broadcasting service. The principle captured in this decision is that fewer regional broadcasting services covering larger television markets are likely to be more viable, than a number of commercial regional television broadcasting services covering very small television markets.

The United Kingdom is different to the rest of Europe, where most countries have regional windows which are operated by the public broadcasters. For instance in Germany the window is broadcast between 17h40-20h00 and in Denmark it is operated for an hour, between 19h30-20h30. The public broadcaster broadcasts their main channel's programming except during their windows or splits where they showcase regional programming including regional news and current affairs. A slightly different approach are those countries where regional centres broadcast the main channel's programming but have a dedicated time slot for regional programming. In Poland, regional centres were created for the purposes of forums where citizens get together to debate on issues surrounding regional problems. These centres complement profiles of national networks

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<sup>28</sup> Source: Nigeria Country Profile. <http://www.africafilmtv.com>

<sup>29</sup> Source: National Broadcasting Commission. <http://www.nbc-nig.org>

and provide local identity for audiences. In the main it appears as if regional windows or regional centres are the model followed by public RTV, in contrast commercial RTV in the United Kingdom, the United States of America, Australia, Brazil and Nigeria follow a network model.

The network model entails networking which occurs when radio or television stations interconnect by some means of (wire, cable, microwave or satellite) so as to enable simultaneous broadcasting of the same programme. Networks have relationship with their affiliates. Affiliates are those broadcasters carried by the network operators.

Network operators provide programming for their affiliates in exchange for their affiliates to carry their advertising in their programmes. Some network operators buy time on their affiliates' stations. Networking has the following benefits for their affiliates:

- Monetary compensation – affiliates bring audiences to advertisers by selling time on their stations;
- Structured schedule of network programmes at no direct cost;
- Simultaneous programme distribution so that affiliates can receive the service at the same time; and
- Advertising environment that appeals to the affiliates target market.<sup>30</sup>

*Q.17.a What is your view on the statement that commercial RTV can provide stimulating competition for public RTV?*

*Q.17.b In Australia, larger and more viable television markets are created by expanding the scope of the commercial RTV services. Do you think in South Africa we should consider dividing the country into regions that cover more than one province for the purpose of licensing commercial RTV?*

*Q.17.c What model should South Africa follow when licensing commercial RTV services? Should the Authority consider a network model or regional splits or regional centres where one or two players would be licensed but required to showcase different provinces?*

*Q.17.d What other models should the Authority consider for the purpose of licensing commercial RTV?*

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<sup>30</sup> Schoeffling et al. Broadcasting in America: A survey of Electronic media. Houghton Mifflin. Boston. 1994.

## SECTION D

### COMMUNITY REGIONAL TELEVISION SERVICES

The purpose of this section is to explore the role that RTV can play in promoting community or grass-roots interests at a regional level. It can be argued that community television should be implemented only at a local level, and that it is not appropriate that it be considered at a regional level. However, a counter argument could be made that a community of interest is not necessarily confined by the borders of a specific geographic area, for example a religious community of interest; or that the needs of a number of different community of interests could be met by a regional public/community access type channel.

## 18. LEGISLATIVE FRAMEWORK

### 18.1 Independent Broadcasting Authority Act

The IBA Act defines a community broadcasting service as a service which-

- (a) is fully controlled by a non-profit entity and carried on for non-profitable purposes;
- (b) services a particular community;
- (c) encourages members of the community served by it or persons associated with or promoting the interests of such community to participate in the selection and provision of programmes to be broadcast in the course of such broadcasting service; and
- (d) may be funded by donations, grants, sponsorships or advertising or membership fees, or by the combination of the aforementioned.

The Act further provides for two types of community broadcasting services. These are:

- (a) a Geographic Community, with its service catering to persons or community whose communality is determined principally by their residing in a particular geographic area; and,
- (b) a Community of interest, where the community served by this service in this category is the one which has specific ascertainable common interest. The

distinctive feature of the service is the common interest that makes such a group of persons or sector of the public an identifiable community.

*Q.18.a Do you think the types of community broadcasting services are wide enough to cover the introduction of a standalone community regional broadcasting service?*

## **18.2 Licensing**

The Authority may issue licences to community RTV in terms of, section 32(1) of the Broadcasting Act which states that-

“Despite the provisions of this Act or any other law, a community broadcasting service licence may be granted by the Authority in the following categories”:

- (a) Free-to-air radio services;
- (b) Free-to-air television services”

## **18.3 Programming**

In section 32(4), the Broadcasting Act gives clear guidelines as to the type of programming that should be covered by community television services. Specifically, section 32(4) states that-

“The programming provided by a community broadcasting service must reflect the needs of the people in the community which must include amongst others cultural, religious, language and demographic needs and must”-

- (a) provide a distinct broadcasting service dealing specifically with community issues which are not normally dealt with by the broadcasting service covering the same area;
- (b) be informational, educational and entertaining;
- (c) focus on the provision of programmes that highlight grassroots community issues including, but not limited to developmental issues, health care, basic information and general education, environmental affairs, local and international, and the reflection of local culture; and



- (d) promote the development of a sense of common purpose with democracy and improve quality of life.”

*Q.18.b Do you think grass roots community issues are capable of being addressed at a regional broadcasting level?*

## **19. MARKET DEMAND AND ECONOMIC FEASIBILITY**

Community broadcasting can be a useful developmental tool, providing a means to deal with issues that the other media cannot or will not attend to. It can be an empowering medium that allows local participation and ownership in the television media domain. It can also provide a platform for public debate and thereby be an important tool for the democratic process in South Africa.

It would face substantial competition at regional level as the Authority is investigating the potential introduction of public and commercial RTV broadcast services, not to mention the competition of national level incumbents.

Economic analysis would suggest that such a non-profit broadcasting service could not survive, without substantial donor funding from government or other sources. International public access models would tend to support such an analysis.

## **20. INTERNATIONAL CASE STUDY**

Public Access Channels demonstrate that at regional level broadcasting is not the sole domain of the public broadcaster, but there is room for non-profit bodies to provide opportunities for individual citizens and groups to articulate their views and beliefs. Public Access Channels therefore provide a much needed platform for diverse public debate which a public broadcaster cannot always accommodate. One of the few examples of community television at a regional level is found in New Zealand, in the form of Triangle Television. Triangle Television describes itself as being New Zealand’s first non-commercial, regional television station. Although it broadcasts mainly to the city of Auckland that covers an area of 60 square kilometres, since August 1998, the area of coverage also includes the whole Auckland region. The Auckland region is made up of four cities (Auckland, North Shore, Waitakare and Manukau), 3 districts (Franklin, Rodney and Papakura) and is administered by 8 local authorities.

Triangle Television broadcasts on UHF Channel 41, 24 hours a day, 7 days a week. The channel essentially operates as a public broadcaster, combining a mix of public access television, international news and information programmes. Public access programmes are aimed at empowering people to broadcast programmes about their own communities, people, special interests, events and local issues.

Auckland is a large city in New Zealand, and like other large cities in the world it is made up of people from different cultures, of various beliefs, interests, languages and talents. As Auckland's only local television station, Triangle aims to broadcast a programme schedule that reflects the diversity within the city. Anyone residing in Auckland can put a programme on Triangle.

Triangle does not have facilities available for programme production, but they do put people who would like to make their own show in touch with people in Auckland with the necessary skills and facilities to assist a citizen or group produce their own show. The station maintains independence from programme providers, to ensure that Triangle is not controlled by individuals or groups with their own agenda. This stance also ensures that editorial control remains with the programme provider. No group is given preference in the allocation of broadcast time or access to resources. Air time is allocated on a first come first served basis, bearing in mind the need for equitable representation of all groups. In addition to local programming, Triangle Television hosts a range of satellite feeds from around the world, including Deutsche Welle (DW) German TV and Worldnet Television from the USA. Programme time not taken up by community programme providers is filled up with public service television programmes aimed at a wide audience. Although Triangle operates on a non-commercial television licence, it was recognised by the Regulator that the station does need to cover operating costs. The licence, therefore, allows Triangle to broadcast a certain amount of commercial programming and advertising. Triangle promotes itself to local businesses in Auckland on the basis that they have niche audiences and that by selecting the appropriate shows to advertise around a business can reach its target audience in a cost effective manner. Triangle also negotiates sponsorship agreements for specialist programmes. Advertising within programmes is allowed, but the advertising fee goes directly to the programme provider to cover broadcasting, production and promotion costs rather than to the station. However, as a non-profit organisation, the station's focus is on programmes and not profit. Triangle receives no government funding or funding from any other external source.

A standard half hour time slot is 29 minutes and a standard one hour time slot is 58 minutes. Triangle uses the remaining minutes of each standard time slot for programme and station promotion. Programmes of all lengths are accepted, however programme providers with programmes of non-standard length have to be flexible in terms of the times the programmes are broadcast. Time slots include all commercial breaks, allowing for optional advertising and sponsorship sourced by the programme provider. Six minutes of each half hour programme can be used to generate revenue through the sale of advertising and sponsorship space. This provides programme providers with a source of income to assist with airtime and production costs. The programme provider sets the advertising requirements, conditions and rates for his own programme.

The broadcast fees charged by the channel depend on the type of programme (non-commercial or commercial), its length and broadcast time (prime time or standard time). Non-commercial programmes include provision for six minutes of advertising per half hour as mentioned previously. The broadcast fee for non-commercial programmes in prime time (18h00-23h00) is NZ\$385/half hour plus general sales tax and in standard time it is NZ\$220/half hour plus general sales tax.

Commercial programmes are defined as programmes supplied by commercial producers and organisations that have been made for profit and the broadcast fee is NZ\$1000/half hour plus general sales tax. Commercial programmes are screened in any time slot not booked by a community programme producer. In addition non-commercial programme producers have priority access to time slots. Commercial programmes are subject to the same broadcasting standards and TV advertising rules as all other programmes.

Triangle television does have a number of requirements and responsibilities for programme providers, these are:

- that programme providers must deliver their programmes on time and in the correct technical format;
- all broadcast material sourced from third parties must be released for broadcast on Triangle Television. Any copyright infringement will be the responsibility of the programme producer;
- programme providers must ensure that all programme content and advertising content complies with the Broadcasting Standards Authority's Free-to Air Television Programme Code;
- that all tapes must be cleared for broadcast by the Programme Director; and

- Triangle Television reserves the right to refuse to broadcast programme material provided by producers who do not hold the legal rights to broadcast materials in their programmes or who have not complied with current broadcasting standards or fail to comply with the non-commercial standards of the station.

The following gives an indication of the type of shows produced locally and broadcast by Triangle Television:

- Auckland at 9 – a show for and about the baby boomer generation;
- Accoustic Stylz – initiative of several independent singer songwriter musicians aimed at giving exposure to New Zealand musicians currently not signed with recording companies;
- Anne Batten’s Auckland in Focus – weekly show looking at people, issues, politics and current affairs of Auckland with a focus on solutions to the problems and challenges faced by the community;
- Baha’l On Air – produced locally by the Baha’i’s of News\ Zealand. The programme features information, entertainment and discussion about the Baha’i’s teachings and faith;
- Family Federation Report – a programmes whose primary objective is to revive and explore family values;
- Friendly Islands Vision – Tongan Community Trust presents a programme of religious instruction and reports featuring cultural and community activities;
- Iranian television – Iranian television presents Iranian music, culture and interviews with Auckland’s Iranian community;
- Ko E Pupunga Maama – this is a Christian programme in the Tongan language and includes cultural items, music and news from Tonga;
- Macau 4x4 Treks – about ordinary people doing extraordinary manoeuvres in their 4x4s; and
- School TV – 15 minute segments by PT England School in Glen Innes about what’s new for the school in the line of education, music, sport and developments.

## **21. “MUST CARRY” OBLIGATIONS**

The international public access model is a useful case study on how the community can access video and broadcast technologies in order to contribute to vital participatory democracy. However, in South Africa it can be argued that the skills and knowledge to

manage such a public access channel at a regional level are not available at grass-roots level. Particularly as the centres of production are distributed unevenly throughout the country and are to be found mainly in Cape Town and Johannesburg. Community broadcasting would need to develop from the ground up over a period of time. The first priority is therefore to build production capacity in marginalised communities and regions. This can only happen if there is a co-ordinated national training programme and access to community based video centres in areas where no production capacity currently exists.

In the past such an approach was raised by the Open Window Network (OWN) which was launched by the Film and Allied Workers Organisation (FAWO) in May 1995. OWN, a national network of twenty-two community based video/television initiatives as well as service organisations focused on promoting training, production, distribution and exhibition. It was the intention of OWN to build co-operation with the public broadcaster for the showing of or commissioning of community originated programming. This organisation has subsequently collapsed.

However, it does raise the merit of providing an opportunity for community interests to be articulated through imposing “must carry” obligations in the licence conditions for public and/or commercial regional television to allow specific time-slots for community originated programming to be flighted. Over the long term this could lead to a dispersion of content production and allow diverse voices to be heard.

***Q.21.a Should the Authority impose “must carry” obligations on public and/or commercial regional broadcasting services with regards to community originated programming.***

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