
GENERAL NOTICE

NOTICE 3162 OF 2003



INDEPENDENT COMMUNICATIONS AUTHORITY OF SOUTH AFRICA

NOTICE OF PUBLICATION OF REGULATIONS ON LOW POWER SOUND BROADCASTING

The Independent Communications Authority of South Africa ("the Authority") hereby, in accordance with section 78 (1) of the Independent Broadcasting Authority Act, 1993 (Act No.153 of 1993) read with section 5(2)(e) of the Broadcasting Act, (Act No.4 of 1999) publishes its Regulations on Low Power Sound Broadcasting.

Interested parties are invited to obtain from the Authority a copy of the Position Paper and Regulations, or to visit the Authority's website www.icasa.org.za

The Position Paper is also available in the following languages:

1. Tshivenda;
2. Sesotho;
3. isiNdebele;
4. Xitsonga; and
5. Afrikaans.

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ICASA LOW POWER SOUND BROADCASTING REGULATIONS, 2003

The Independent Communications Authority of South Africa has in terms of section 5(2)(e) of the Broadcasting Act, (Act No.4 of 1999) read with section 78 (1) of the Independent Broadcasting Authority Act, (Act No.153 of 1993) made the regulations in the Schedule.

SCHEDULE

1. Preamble

The objective of these regulations is to introduce and regulate Low Power Sound Broadcasting Services in South Africa. The provisions of the IBA Act, the Broadcasting Act and all other pieces of legislation pertaining to broadcasting and telecommunications are applicable to these Regulations.

2. Definitions

In these regulations any word to which a meaning has been assigned in the Independent Broadcasting Authority Act (Act 153 of 1993) and the Broadcasting Act (No.4 of 1999) shall have that meaning unless the context indicates otherwise:-

- 2.1 **"Commercial Low Power Sound Broadcasting Service"** means a commercial low power sound broadcasting service whose coverage area is, for instance, shopping malls/centres, sports grounds, show grounds and drive-in movie theatres, or any other like service the Authority may deem appropriate;
- 2.2 **"Community Low Power Sound Broadcasting Service"** means a community low power sound broadcasting service operating from and broadcasting to, for instance, old age homes, and links between old age homes and places of worship, or between places of worship, or any other like service the Authority may deem appropriate;
- 2.3 **"Current Affairs"** means programming that is not a news bulletin but which focuses on and includes comment on and interpretation and analysis of issues of immediate social, political or economic relevance and matters of international, national, regional and local significance;

- 2.4 **"Low Power Sound Broadcasting Service"** means a community or commercial sound broadcasting service which radiates power not exceeding one watt;
- 2.5 **"Low Power Sound Broadcasting Licence"** means a broadcasting licence granted and issued for the purpose of providing a low power sound broadcasting service;
- 2.6 **"News"** means programming that is not current affairs by a broadcaster in which it reports on news events of immediate social, political or economic relevance and on matters of international, national and local significance;
- 2.7 **"Performance Period"** means the period of 126 hours in one week measured between the hours of 05h00 and 23h00 each day;
- 2.8 **"Special Event"** means an event of a cultural, religious, political, sporting, commercial or of a similar nature taking place within the applicant's community or coverage area, which must take place irrespective of whether a licence has been granted or refused;
- 2.9 **"Special event licence"** means a temporary licence with a term of validity not exceeding 30 days;
- 2.10 **"the Broadcasting Act"** means the Broadcasting Act, No.4 of 1999; and
- 2.11 **"the IBA Act"** means the Independent Broadcasting Authority Act, No. 153 of 1993.

3. Terms of broadcasting licences

- 3.1 The term of validity of a community and commercial low power sound broadcasting licence shall be three years.
- 3.2 The term of validity of a special event community and commercial low power sound broadcasting service licence shall not exceed thirty days.

4. Programming

- 4.1 Low power sound broadcasting services shall not provide news and current affairs programming.
- 4.2 Low power sound broadcasters shall provide programmes intended for the specific coverage area, for example, shopping malls, sports grounds, show grounds, drive-in movie theatres, old age homes, places of worship, or any other like service the Authority may deem appropriate.

5. South African Music

- 5.1 Every holder of a community low power sound broadcasting licence which devotes 15% or more of its broadcasting time during the performance period to the broadcasting of music shall ensure that at least 40% of the musical works broadcast in the performance period consist of South African music, and shall comply with the Authority's South African Music Content Regulations, 2002, or any amendment or replacement thereto.
- 5.2 Every holder of a commercial low power sound broadcasting licence which devotes 15% or more of its broadcasting time during the performance period to the broadcasting of music must ensure that at least 25% of the musical works broadcast in the performance period consist of South African music, and shall comply with the Authority's South African Music Content Regulations, 2002, or any amendment or replacement thereto.

6. Fees

- 6.1 Every application for a three year community low power sound broadcasting service licence shall be accompanied by a fee of one thousand five hundred rand (R1500.00).
- 6.2 A licence granted to any applicant in terms of regulation 6.1 shall not be issued unless a fee of two hundred rand (R200.00) has been paid to the Authority.
- 6.3 Every application for a three year commercial low power sound broadcasting service licence shall be accompanied by a fee of five thousand rand (R5000.00).

- 6.4 A licence granted to any applicant in terms of regulation 6.3 shall not be issued unless a fee of five hundred rand (R500.00) has been paid to the Authority.
- 6.5 Every application for a renewal of a three year community low power sound broadcasting service licence shall be accompanied by a fee of one thousand five hundred rand (R1500.00).
- 6.6 Every application for a renewal of a three year commercial low power sound broadcasting licence shall be accompanied by a fee of five thousand rand (R5000.00).
- 6.7 Every application for the amendment of a community low power sound broadcasting licence shall be accompanied by a fee of one thousand rand (R1000.00).
- 6.8 Every application for the amendment of a commercial low power sound broadcasting licence shall be accompanied by a fee of three thousand rand (R3000.00).
- 6.9 Every application for a special event community low power sound broadcasting service licence shall be accompanied by a fee of five hundred rand (R500.00).
- 6.10 Every application for a special event commercial low power sound broadcasting service license shall be accompanied by a fee of two thousand rand (R2000.00).
- 6.11 A licence granted to any applicant in terms of regulation 6.9 shall not be issued unless a fee of five hundred rand (R500.00) has been paid to the Authority.
- 6.12 Every commercial low power sound broadcasting licensee with a three year licence shall pay to the Authority a maximum annual licence fee of 0.5% turnover.
- 6.13 There shall be no annual licence fees payable by three year community low power sound broadcasting licensees.

7. Ownership and Control

- 7.1 No foreign person or entity shall directly or indirectly exercise control over a low power sound broadcasting licensee in any way whatsoever.

- 7.2 No person or entity that has an interest in an existing broadcasting licensee shall directly or indirectly exercise control or have an attributable interest in a low power sound broadcasting service.

8. Advertising and Sponsorship

- 8.1 Low Power Sound Broadcasting Services shall source advertising and sponsorship from within the coverage area.
- 8.2 Advertising shall be limited to a minimum of eight minutes and a maximum of fourteen minutes per hour.
- 8.3 The provisions of 8.1 and 8.2 shall not apply to specific services related to the delivery of audio attached to a specific presentation, performance or event, for instance, at drive-in movie theatres or any other like service the Authority may deem appropriate.
- 8.4 All broadcasters shall adhere to the Advertising Standards Authority's Code as specified in section 57(1) of the IBA Act.
- 8.5 All broadcasters shall to adhere to the Authority's Advertising, Infomercials and Programme Sponsorship Regulations, 1999, or any amendment or replacement thereto.

9. Code of Conduct

Low Power Sound Broadcasting Services shall adhere to the Authority's Revised Code of Conduct for Broadcasters, 2003, or any amendment or replacement thereto.

10. Technical Standards and Specifications

All Low Power Sound Broadcasting Services shall adhere to the Authority's regulations relating to the technical standards and specifications applicable to sound broadcasting services.

11. Records to be kept by all Low Power Sound Broadcasting Services

11.1 A low power sound broadcasting licensee shall, to the satisfaction of the Authority, in addition to records prescribed by any other law, keep the following records relating to its broadcasting activities -

- (a) documentation relating to the person or entity who or which is in control of or in a position to exercise control over the licensee concerned including documentation relating to -
 - (i) its legal status including all founding documentation pertaining to the licensed entity and any member organisations of the entity;
 - (ii) details of the directors, members or trustees including the gender, race and address of such person or entity, as the case may be; and
 - (iii) in the case of a licensee which is a company, the shareholding, the extent thereof and any changes which may occur in the control thereof;
- (b) a list of capital assets, books of account, financial records and audited financial statements;
- (c) a list of donors and details of all financial and non-monetary donations;
- (d) all documentation pertaining to the opening, maintenance and changes in the status to banking accounts;
- (e) all contracts entered into by or on behalf of the licensee in connection with the daily operational activities of the licensee;
- (f) a log of all programmes broadcast in the form acceptable to the Authority;
- (g) proposed programme schedules in respect of future programming;
- (h) a public file for keeping -
 - (i) written complaints received by the licensee;
 - (ii) correspondence between the licensee and complainants;
- (i) a log of telephonic complaints received by the licensee;

- (j) information pertaining to personnel records including full details of individuals employed by the licensee on a full time or part-time basis including an indication of the race and gender of each employee, the length of service and information pertaining to the status of each employee as well as training programmes arranged by a licensee;
 - (k) a log of all advertisements broadcast;
 - (l) a log of the percentage air-time per hour allocated to advertisements;
 - (m) during an election period a log of all party - political advertisements broadcast by the licensee;
 - (n) during an election period, where applicable a log of all party election broadcasts broadcast by the licensee;
 - (o) a log of all sponsorships for programmes together with details of payment, financial or otherwise, received for such sponsorship;
 - (p) copies of all correspondence with the Authority; and
 - (p) a log of all direct and indirect on-air fundraising activities for the stations.
- 11.2 For purposes of regulation 11.1 (c), "donations" shall include prizes, non-cash donations, grants or sponsorships made available for the licensee's use or awarded to the public, sections of the public, a community, or subscribers, and "donors" and "donated" shall have corresponding meanings.
- 11.3 A licensee may, by notice directed to him or her, be required to produce or furnish to the Authority, at a time and place specified in the notice such records, including documents, accounts, estimates, returns and information as may be specified in such notice and relating to any matter in respect of which a duty or obligation is imposed on the licensee by the Act or these regulations or by the relevant licence.
- 11.4 The provisions of 11.1 to 11.3 shall not apply to specific services related to the delivery of audio attached to a specific presentation, performance or event.

12. Review of Regulations

- 12.1 The Authority may, every successive three years after these regulations have come into effect, hold an inquiry to review these regulations in terms of section 28 of the IBA Act.
- 12.2 The Authority shall consider submissions made by licensees and any interested person and may make any amendment to the regulations it considers to be in accordance with the public interest as enunciated in the IBA Act and the Broadcasting Act.

13. Effective Date

The effective date of these regulations shall be 01 April 2004.

14. Short Title

These regulations are called the Low Power Sound Broadcasting Regulations, 2003.
