
GENERAL NOTICE

NOTICE 153 OF 2006



ICASA SOUTH AFRICAN MUSIC CONTENT REGULATIONS

The Independent Communications Authority of South Africa has under sections 53 (3), 53 (4) and 53 (5) read with section 78 (1) of the Independent Broadcasting Authority Act, 1993 (Act 153 of 1993), made the regulations in the Schedule.

SCHEDULE

1. Definitions

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

- 1.1 **"Bouquet"** means a collection of video and / or audio channels marketed as a single package, often transmitted in a single data stream, or a thematic environment where channels are devoted to a specific programming genre;
- 1.2 **"Documentary"** means a factual presentation or analysis of musicians or composers, whether past or present, with a normal minimum duration of five minutes;
- 1.3 **"Interview"** means conversation between a radio presenter and musician(s) or composer(s) used as a basis of a broadcast, with a normal minimum duration of five minutes;
- 1.4 **"New Musician"** means a musician whose debut album has been on the market for six months or less;
- 1.5 **"Performance Period"** means the period of 126 hours in one week measured between the hours 05h00 and 23h00 each day;
- 1.6 **"Sound Broadcasting Licence"** means a broadcasting licence granted and issued for the purpose of providing a sound broadcasting service;

1.7 "the Broadcasting Act" means the Broadcasting Act, 1999 (Act No.4 of 1999);

1.8 "the IBA Act" means the Independent Broadcasting Authority Act, 1993 (Act No.153 of 1993).

2. Application of these Regulations

These regulations shall apply to the holder of any category of sound broadcasting licence, which devotes 15% or more of its broadcasting time during the performance period to the broadcasting of music and shall be incorporated in the licence:

2.1 In the case of a licensee holding a valid licence at the date of commencement of these regulations.

2.2 In the case of a licence issued on or after the date of commencement of these regulations, from the date of commencement of broadcasting.

3. Imposition of Sound Broadcasting Licence Conditions Regarding South African Music

3.1 Public Sound Broadcasting Licensees

Every holder of a public sound broadcasting licence to which these regulations apply must ensure that after eighteen months of the gazetting of these regulations, a minimum of 40% of the musical works broadcast in the performance period consist of South African music and that such South African music is spread reasonably evenly throughout the said period.

3.2 Commercial Sound Broadcasting Licensees

Every holder of a commercial sound broadcasting licence to which these regulations apply must ensure that after eighteen months of the gazetting of these regulations, a minimum of 25% of the musical works broadcast in the performance period consist of South African music and that such South African music is spread reasonably evenly throughout the said period.

3.3 Community Sound Broadcasting Licensees

Every holder of a community sound broadcasting licence to which these regulations apply must ensure that after eighteen months of the gazetting of these regulations, a minimum of 40% of the musical works broadcast in the performance period consist of South African music and that such South African music is spread reasonably evenly throughout the said period.

3.4 Subscription Sound Broadcasting Licensees

Every holder of a subscription sound broadcasting licence to which these regulations apply must ensure that after eighteen months of the gazetting of these regulations, a minimum of 10% of their bouquets consist of channels made up of South African music content.

3.5 Public Broadcasting Commercial Services

The commercial services provided by the holder of a public sound broadcasting licence shall be subject to the same regulatory requirements as in these regulations for commercial sound broadcasting services and subscription sound broadcasting services.

3.6 Exemption

The Authority may, upon written application and good cause shown by the holder of a sound broadcasting licence, vary any condition imposed by 3.1, 3.2 3.3, 3.4, and 3.5, if it is satisfied that the variation is consistent with the objects of the IBA Act, 1993 and the Broadcasting Act, 1999, and any regulations made thereunder.

4. Formulas (Format Factors)

4.1 The Music Points for 4.1(a) are calculated using the following formula: Format Factor (unit) x Duration.

(a) for every five minutes of coverage of live music = 2

(b) for an interview with South African musician(s) or composer(s) with a normal minimum of five minutes = 2

Ten points are worth 1% towards the South African music content quota on a weekly basis.

4.2 The Music Points for 4.2(a) are calculated using the following formula): Format Factor (unit) x number of tracks:

- (a) for promoting new musicians whose debut albums have been on the market for six months or less = 1

Ten points are worth 1% towards the South African music content quota on a weekly basis.

5. Records

5.1 The holder of a sound broadcasting licence shall keep and maintain logs, statistical forms and programme records to the satisfaction of the Authority containing:

- a) particulars of –

- (i) the percentages of South African music broadcast in the performance period;
- (ii) the time and duration of every such broadcast;

- b) such other particulars as may be required by the Authority.

5.2 The logs, statistical forms and records contemplated in sub-regulation (1) shall be preserved in original for a period of not less than 12 months after the date of last entry.

6. Review of Regulations

6.1 The Authority may, three years after these regulations have come into effect, hold an inquiry to review these regulations.

6.2 In reviewing the regulations the Authority shall determine the procedure to be followed during the inquiry.

6.3 The Authority shall consider submissions made by the licensee and any interested person on its capacity to fulfill the South African content quotas and may make such determination as it considers equitable in the circumstances.

7. Effective Date

These Regulations replace the ICASA South African Music Content Regulations of 2002 which came into effect on 22 August 2003. The effective date of these amended Regulations shall, therefore, be the date of publication in the Gazette.

8. Short Title

These regulations will be called the ICASA South African Music Content Regulations.
