ICASA

Independent Communications Authority of South Africa

Discussion Paper on the Review of Local Content Quotas

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A. INTRODUCTION

1. Aims of the Discussion Paper

The South African Music and Television Local Content Regulations were published in April and May 1997 and came into effect in November 1997. The Independent Communications Authority of South Africa ("the Authority") is required to review the Regulations within three years of their coming into effect, with a view to raising the quota and reassessing the basis on which it is calculated. In addition, the White Paper on Broadcasting Policy of 1998 requires the Authority to ensure that South African broadcasters reach a predominant local content in all genres within a target period of ten years.

This Discussion Paper is part of the Authority's review of the Regulations. Its primary purpose is to give all interested parties the opportunity to contribute their views. To this end, it is structured in the form of questions supported by explanatory and contextual discussion. The Authority invites the public to respond to these questions, both in written and oral submissions. It is hoped that the Discussion Paper will generate and solicit relevant research as well as a wide range of opinion and comments.

The Discussion Paper will be followed by public hearings in the first quarter of 2001. The Authority will then publish a Position Paper and new Regulations will thereafter be gazetted. (Please see page 35 for the Time Frames).

2. Background

2.1. ICASA / IBA

The Independent Communications Authority of South Africa (ICASA) was established in July 2000 following the merger of the Independent Broadcasting Authority (IBA) and the South African Telecommunications Regulatory Authority (SATRA). The ICASA Council consists of seven councillors and is chaired by Mandla Langa.

The ICASA Act effectively dissolved the IBA and SATRA, but the substantive parts of the Independent Broadcasting Act ("the IBA Act 1993") and the Telecommunications Act (1996) still remain in force. In other words, all matters that are governed by the IBA Act, such as the South African Music and Television Local Content Regulations, now fall within the ambit of ICASA's broadcasting division. This Paper will use the term "the Authority" to refer to both the IBA and ICASA.

2.2. Local Content Regulation

The primary aims of local content regulation are two-fold:

- To develop, protect and promote a national and provincial identity, culture and character;
- To create vibrant, dynamic, creative and economically productive local industries.

South African television and radio need to reflect and engage with the life experiences, cultures, languages, aspirations and artistic expressions that are distinctly South African. Through local music and television programming, radio and television can make a vital contribution to democracy, nation building and development in South Africa. Local content quotas seek to protect and develop our national cultures and identities and to extend choice for the public. South African music and television programmes need to be produced by a wide range of South Africans, for South African audiences, in languages they understand and choose.

Local content quotas are also intended to facilitate economic opportunity for many South Africans. This includes the thousands of musicians and people working in television production as well as many related industries. The Regulations aim to provide incentive for the music and television industries and broadcasters to invest in the development of South African music and television, to develop new South African talent, to invest in high quality technology, and generally to improve the quality and variety of South African music and television programming.

The Regulations also aim at redressing historical imbalances in the cultural and broadcast industries. Broadcasters are encouraged to commission independent production companies which are controlled by previously disadvantaged individuals and are in a range of different provinces; and to commission and broadcast new talent.

2.3. Focus of the Discussion Paper

The major focus of the Discussion Paper is, in the context of the Authority's mandate to increase the quota, to both assess and plan to maximise the impact of the local content quota on:

- The quality and diversity of broadcasting content;
- The development of the South African music and television industries across all genres and programme categories;
- The development of the South African music and television industries with regard to the empowerment of previously disadvantaged individuals.

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3. Definitions

3.1. Defining "local content"

Section 53 (1) of the IBA Act of 1993 defines local content as television programming (excluding transmissions of sports events, advertisements, teletext and continuity announcements) which is produced:

i. by a broadcasting licensee; or
ii. by a person who is a citizen of and permanently resident in the Republic; or
iii. by a juristic person the majority of the directors, shareholders or members of whom are citizens of and permanently resident in the Republic; or
iv. in co-production in which persons referred to in subparagraph (i), or (ii) or (iii) have at least a fifty percent financially interest; or
v. by persons referred to in subparagraph (i), (ii), (iii) or (iv), in circumstances where the prescribed number of the key personnel who are involved in the production of the television programme, are citizens of and permanently resident in the Republic; or
vi. by persons referred to in subparagraph (i), (ii), (iii) or (iv), in circumstances where the prescribed percentage of the production costs are incurred in the Republic (53 (1) (a)).

3.2. Defining programme categories

The South African Television Regulations (see Annexure A) define various programme categories, including children's programming, current affairs programming, documentary drama, documentary programming, drama, educational programming and informal knowledge-building programming.

"South African Drama" is defined as drama programming which consists of local television content and in which South Africans have exercised direction over the creative and

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administrative aspects of pre-production, production and post-production. South Africans are taken to have exercised direction if:
in the case of programmes which have been produced in terms of section 53 (1) (i), (ii), (iii) or (iv) (see above):

a) the director(s) of the programme and/or the writer(s) of the programme is/are South African; and
b) not less than 50% of the leading actors appearing in the programme are South African; and
c) not less than 75% of the major supporting cast, are South African; and
d) not less than 50% of the crew are South African; and
e) the post-production is wholly done in South Africa.

In the case of programmes produced in terms of section 53 (1) (v) and (vi) (see above):

a) The key personnel are South African; and
b) Not less than 50% of the production crew are South African; and
c) The post-production is wholly done in South Africa (2.16)

The Authority's monitoring of South African drama relies on what is supplied by broadcasters. There are no independent audits to check if the Act's requirements are truly complied with.

Q.3.a What proper mechanism should be put in place to ensure that, as far as South African drama is concerned, broadcasters are truly complying with the requirements of the Act?

In terms of the above definitions, different regulations are stipulated for public, subscription and private free to air television licensees (See Annexure A).

Changing the definitions will require amending the IBA Act. Since amending legislation is a lengthy procedure involving Parliament, it might be advisable to remove the definitions from the Act and put these provisions in the Regulations. While this would require a once-off amendment to the Act, it would make it easier to change the definitions in future, should it be necessary. The Act could retain a more general statement of the objectives of the local content quota.

Q.3b. Are the definitions of "local content" and the various programmes categories adequate and sufficiently clear and simple to implement? Should the IBA Act be amended to change the definitions? Please suggest amendments if necessary.

3.2.1. Defining "Information Programming"

The Regulations do not define "Information Programming". This has led to conflicting interpretations, as highlighted in the process of Midi's TV licence amendment application.

Other countries, for example Canada, distinguish information programming from other types of fact-based programming that lean more towards entertainment. This is an attempt to prevent the definition from becoming too broad to be useful. It is proposed, on this basis, that information programming be defined as "programming specifically designed to inform and educate". This includes:

- current affairs
- informal knowledge building; and
- social documentaries.

This excludes (unless the Authority has accepted an application for an exemption from a broadcaster that motivates to the contrary):

- talk-shows;
- magazines;
- breakfast shows; and
- interviews.

Q.3b. How should "information programming" be defined, and what genres of programming should it include and exclude?

4. Monitoring Methodology and Compliance

The Monitoring and Complaints Unit (MCU) of the Authority published a Monitoring Report in October 2000 (See Annexure B). The aim of the report is to assess the licensees in terms of compliance with the local content regulations.

The methodology employed by the MCU is to calculate the percentages of programming that the station is required to broadcast. The standard used to calculate these percentages is the performance period (05h00 – 23h00), as defined in the Regulations. The percentages are calculated using the programme schedule of broadcasters. These are verified through spot-check monitoring.

With regard to public television (SABC 1, 2 and 3), each channel was monitored during August and September 2000. The MCU found that all three channels are complying with the requirements set out in the regulations, both in terms of quantity of local content (25% local content) and balance of programming.

The MCU notes that while the SABC achieved about 54% local content across all channels during the monitored period, a significant proportion of this percentage is repeats.

With regard to subscription television, MNET was monitored for the months of November 1999 – April 2000. The MCU concludes that MNET is complying with its licence conditions and requirements.

With regard to free to air private television, the MCU concludes that e-tv complies with its licence conditions with regard to local content.

Q.4a. Does the monitoring methodology used by the Authority render accurate results?

Q.4b. Can alternative monitoring methods be suggested that are feasible and cost effective?

Q.4c. How can the current monitoring methods be adapted to become more user-friendly to both broadcasters and the Authority?

4.1. Monitoring South African Drama

South African drama, as defined in the Regulations (see page 55*), has proven difficult to monitor insofar as the obligations regarding percentages of South Africans in the cast and crew are concerned. In other words, the Authority has experienced difficulties in checking that not less than 75% of the major supporting cast and 50% of the crew, for example, are South African in productions that claim to be "South African Drama".

Q.4d. What form of monitoring can be put in place to ensure that the requirements regarding the definition of "South African Drama" are implemented?

4.2. Repeats

The Regulations do not deal with the issue of repeats. The Authority has therefore not been able to stipulate that only a certain number of repeats of a particular programme will be taken into account when calculating a broadcaster's compliance to the quota. (E-tv is the exception here as its licence conditions include the issue of repeats).

The Authority is concerned to find a balance with regard to repeats. On the one hand, it might serve the overall objectives of the local content regulations to allow for certain local productions to be aired more than once and for the repeat to count towards the broadcaster's quota. On the other hand, the current lack of regulation on repeats is open to abuse as local programmes can be broadcast several times over many years as a substitute for the broadcaster commissioning additional product.

Q.4e. Should there be a limit on the number of repeats that are used when calculating compliance to the quota? How should this be formulated?

4.3. Broadcasters' Promotions

The Regulations do not deal with the issue of broadcasters' promotional material. The Authority has therefore not been able to stipulate that local product aimed at promoting the broadcaster will not be taken into account when calculating a broadcaster's compliance to the quota. This could results in product that does not fulfill the overall aims of the local content regulations qualifying as local content.

Q.4f. ***Should the Regulations be amended to exclude broadcasters' promotional material from the definition of local content? Are there other comparable loopholes in the Regulations that should be brought to the Authority's attention?***

5. Increasing the Quota

The White Paper on Broadcasting Policy (1998) requires the Authority to draw up a plan for local content whereby South African broadcasters will reach a predominant local content in all genres within a target period of 10 years. It is unclear as to when the 10-year period starts: on the publication of the White Paper or on the implementation of the Regulations.

The White Paper argues that the predominance of local content is necessary to the protection of national cultural heritages, attitudes, norms, ways of behavior and values that are uniquely South African. This is line with international trends. Many countries have legislative and regulative requirements to promote their national identity and culture, and to provide for the interests of minorities. With the globalisation of film and audio-visual products, concern for national cultural development is increasing. International experience indicates that the strongest defence that countries have against trans-border satellite services, for example, is strong local programming.

For the vast majority of countries, the cost of local content will always far outweigh the cost of international product, because international product will always have recouped a significant portion of production before being sold on the foreign market. Many governments' response is to implement strong regulatory frameworks, including local content quotas.

But the cost of local content is also the major restraint to increasing the quota. Heavy local content obligations, particularly if they are airtime obligations, could undermine the viability of South Africa's television stations.

Q.5a. ***When does the 10-year target period, as stipulated by the White Paper, in which broadcasters are required to reach a predominant local content in all genres begin?***

Q.5b. ***Given the national and cultural imperatives for increased local content quotas on the one hand and financial capacity of broadcasters on the other, how can the Authority best plan***

to ensure that broadcasters reach a 50% local content level within the ten year period stipulated by the IBA Act?

Q.5c. Since the White Paper requires a predominant local content in all genres, does this imply that <u>all</u> broadcasters – public, private free to air and subscription – are required to meet local content targets of over 50%?

Q.5d. If the SABC commercialises a channel and no longer uses public money to subsidise it, should that channel still be subject to the regulations of a <u>public</u> broadcaster? Would this contravene competition regulations?

6. Independent Production Quota

The IBA Act defines "independent television production" as a production of local television content:

i. by a person not directly or indirectly employed by any broadcasting licensee;
ii. by a person who is not controlled by or in control of a broadcasting licensee (53(1) (b)).

The South African Television Content Regulations require public, private and subscription television service providers to ensure that at least 40% of their local television content programming consists of programmes that are independent television productions. In addition, independent television productions should be spread reasonably evenly (where applicable) between various programme categories - South African drama, documentary, informal knowledge-building, educational programming, and children's programming.

Q.6a. Are broadcasters implementing the Regulations with regard to independent television production?

6.1. Monitoring of Independent Production Quota

Q.6b. Is it advisable for the Authority to require broadcasters to submit certified statements detailing which companies they commissioned for their various programmes?

6.2. Diversity

The independent production quota is an important mechanism for achieving diversity in programme production, for encouraging a wide range of views and experiences to be reflected on air, and for creating opportunity for a great number of people to enter the television production industry, particularly historically disadvantaged individuals.

The Authority would also like to ensure that that the requirements of the IBA Act relating to provincial identity, culture and character are addressed. South Africa's different provinces need to have their culture represented on television. Furthermore, the economic opportunities of the television production industry should be spread across the country.

However, despite the introduction of the independent production quota, it appears that only a handful of companies are receiving the bulk of the commissions. In a recent report for the National Film and Video Foundation (NFVF), *Profile 2000*, PricewaterhouseCoopers (PwC) estimates that less than 15 production companies produce more than 90% of all feature films and television productions in South Africa, although there are more than 150 registered producers. *Profile 2000* also reports that 82% of its survey respondents conduct their business in the Johannesburg area.

Q.6c. Has the independent production quota resulted in a sufficiently diverse range of South African experiences being represented on television?

Q.6d. Has the independent production quota resulted in a sufficiently diversity of people and companies receiving commissions?

6.3. Terms of trade and commissioning practices

Fair and transparent commissioning procedures and terms of trade are vital to the diversification of the independent production sector. In addition to implementing the quotas, broadcasters were expected to establish fair commissioning procedures. However, the term "fair and transparent commissioning procedures and terms of trade" was never explicitly defined and there is no mechanism for regulating broadcasters' practice in this regard.

Q.6e. Are broadcasters' current trade and commissioning practices fair and transparent? Does the Authority have a role to play in this regard? If so, how should an enforceable policy be drafted?

7. Quality

There are differing views in South Africa on how quality standards should be measured. There does seem to be consensus, however, that generally, quality programming incurs high costs. To obviate a situation in which broadcasters produce only the less expensive programme categories, the Regulations require television broadcasters to meet quotas within prescribed specific programme categories (for example, drama, information programming, children's programming and educational programming) in addition to an overall local content quota. Many in the independent production sector argue, however, that the cost per minute provided by the broadcasters for most programme categories undermines standards of quality.

Q.7a. Are the local content quotas resulting in sufficiently high quality programmes across the range of programme categories?

In order to ensure that broadcasters spend sufficient amounts on commissioning local product as against buying foreign programmes, some countries include as part of their local content quotas a minimum percentage of total budgets to be spent on local content.

Q.7b. Should the Authority include as part of the local content quota a minimum percentage of broadcasters' total budgets to be spent on local content? What should this percentage be?

Q.7c Of the genres counted towards local content, which of those are viable in terms of audience and revenue?

8. Encouraging diversity and quality: a more specific and flexible quota

The current Regulations combine airtime obligations, specific programme categories, times of day, and financial obligations (in some cases) in setting quotas. The disadvantage of this system is the amount the broadcaster invests in production is disregarded when it comes to calculating compliance to the quota. The Regulations therefore offer no incentive to the broadcaster to commission more expensive quality programmes.

More specific or variable quotas have been used elsewhere to encourage quality (and diversity) of programming in various ways. Australia, for example, developed a points system to determine how much local content each programme contributes towards reaching the broadcaster's target amount. In order to encourage quality, the points system takes into account the amount of investment in production, the "Australian nature" of the programme, as well as the duration of the product. The points system rewards the production of commercially risky programming, such as social documentary and arts programmes, which in turn serves to encourage diversity in broadcasters' programming schedules.

The commissioning of empowerment companies can similarly be incentivised. For example, the points system could reward broadcasters for commissioning black and female owned production companies, provincial diversity, training, SMME promotion, programmes in certain languages, dubbing or subtitling programmes, and so on. The issue that arises is how each of these factors should be weighted against each other. For example, how many minutes of airtime is the commissioning of an empowerment company worth?

If carefully designed the points system could serve to promote quality, diversity and empowerment, while also maximising the flexibility of the local content quota, which alleviates the burden on the broadcaster.

Q.8a. Should the Authority introduce a variable quota based on a points system in which a variety of factors can contribute towards the local content quota? What should these

factors be and how should they be weighed in relation to each other? How can quality, diversity and empowerment be served by this points system?

Q.8b. Should "pay or play" be included as one of the factors that contribute towards the local content quota or is this precluded by the White Paper?

Q.8c. Should the broadcast of African programmes be included as one of the factors that contribute towards the local content quota? Which African countries should qualify? Should this arrangement be contingent on reciprocity?

Q.8d. How could the Authority monitor a variable quota most effectively and simply?

9. The impact of the local content quotas on the television industry

One of the primary aims of the local television content quota is to stimulate growth in the South African television industry. Regulation can help to create economic opportunity for people working in television production as well as related industries, and provide incentives for television producers and broadcasters to invest in technology and talent.

It is difficult to measure the impact of the local content quota on the growth of the television industry, as primary research and disaggregated statistics are not readily available. The recent report of the National Film and Video Foundation, *Profile 2000*, offers some insight.

Profile 2000 notes the growing importance of television productions, in part because of the increased demand for local programming due to local content quotas. The local film and television industry is dominated by television productions. The revenue generated from television production currently constitutes approximately 36% of annual film/television revenues. Profile 2000 also notes that television viewership is growing at a rate of about 13% per annum, that local content is extremely popular with South African viewers, and that there is an increasing demand for South African productions in the rest of Africa.

Despite the growing importance of television, the sector is not experiencing significant growth. Profile 2000 observes that rising production costs is a key trend in the industry, and that a major problem facing TV production companies is that the rate for commissioning for productions has not kept pace with the increasing cost of production. It also argues that one of the major impediments to industry growth has been insufficient government funding and support. While the industry generates close to R1.4 billion worth of production per annum, government provides funding of R10 million per anum, implying a funding ratio of 0.7%. Since most countries with successful industries have an average funding ratio of 19%, the local industry cannot develop into a global force without increased government support. In addition, the report argues that very few of the incentive schemes administered by the Department of Trade and Industry are accessible to the film industry.

Many in the independent sector argue that the combination of low commissioning rates and insufficient government support makes for a hostile environment for SMMEs. Only the bigger companies are able to reinvest in their own development; the margins are too narrow for smaller companies to develop their infrastructure and cover their overheads.

Q.9a. Has the introduction of the local content quota stimulated growth and job creation in the television industry? To what extent have previously disadvantaged individuals and SMMEs benefited from the introduction of the quota?

Q.9b. Does the limited amount of government funding and support currently available severely hamper the growth of the industry? Given government's policy of fiscal restraint, how can this situation be improved?

9.1 Co-productions

South Africa has pursued co-production strategies with various other countries. Co-production treaties allow for co-productions to be recognised as local content in both countries and encourage more experienced producers to work with newcomers in the partner country. Many in the independent sector argue, however, that South Africa's co-production treaties are not benefiting the film and television industry, as there are insufficient incentives offered to co-productions by South Africa – for example, substantial government subsidies of local content.

Q.9c. Are South Africa's co-production strategies benefiting the film and television and broadcast industries?

9.2 The popularity of local content programmes and advertising revenue

Local programmes are extremely popular with viewers. The latest audience ratings (ARs) show that local programmes receive the highest ratings across all channels (see Annexure C). The most popular genre on television is drama, followed by magazine programmes, news and children's programming. Reality shows are rapidly growing in popularity.

Broadcasters claim that local programmes often do not attract advertising revenue commensurate with their popularity. In other words, imported programmes with lower ARs tent to attract more advertising revenue than local programmes with higher ARs. The explanation for this is that advertisers are less interested in targeting the type of viewer they associate with local programme audiences, that is, LSM 2-6. The implication of this anomaly is that broadcasters have less to invest in local programming.

Q.9d. What strategies can be adopted to ensure that local content programmes attract advertising revenue commensurate with their popularity?

10. The Broader Policy Environment

Local content regulation is part of a package of policy instruments that government is using to create an enabling environment for the television industry.

The Department of Arts, Culture, Science and Technology (DACST) published a Cultural Industries Growth Strategy in 1998 that proposes a number of initiatives to stimulate growth in the film and television industry. These include:

- financing;
- co-productions;
- information provision;
- promotion of the location industry;

- training and development;
- export stimulation.

The National Film and Video Foundation (NFVF) was established by DACST to promote and develop the film and television industry. The NFVF establishes two key objectives for the industry in Profile 2000:

- to ensure convergence of current industry; and
- to ensure implementation and coordination of new industry initiatives;

through the workings of the NFVF.

To this end, the NFVF proposes six key strategies:

- Capital requirements;
- Fund allocation;
- Training and development;
- SMMEs;
- Marketing and communications
- Audience development.

The Department of Communications (DoC)'s White Paper on Broadcasting Policy (1998) also addresses itself to the support of the industry. It outlines some key measures in this regard, including the following:

- radio and television stations should commit sufficient resources to schedule appropriate local content at times when a large number of citizens are watching/listening;
- television broadcasters should provide a mix of their own programmes and those produced by independent producers;
- local independent producers should have sufficient resources to be able to provide content which will be competitive internationally; and;
- the establishment of the South African Broadcast Production Agency whose aim will be to support the development of South African content.

In addition, the IBA Act directs the Minister of Communications to establish a South African Broadcast Production Advisory Body to advise her, in consultation with the NFVF, on how the development, production and display of local television and radio content can be supported.
Both DACST and the DoC commit to identifying and promoting supply-side initiatives necessary to the support of the production of South African industry and content.

Many in the independent sector contend that better coordination between the various public structures established to promote the film and television industries is important. For example, when a broadcaster commissions local product, various obligations and benefits should pertain – government subsidy for either the broadcaster or the production company to boost the cost per minute ratio, the broadcaster giving the international rights for the programme to the production company, and so on. The argument here is that only through a holist package of regulations and incentives (of which local content regulation is one part) will the industry prosper and will quality local product be consistently made.

Q.10a. How can the Authority better interface with the various government policies and structures developed for the promotion of the industry? What coordination role is appropriate to the Authority (as opposed to other government bodies)?

C. SOUTH AFRICAN MUSIC

11. Definition

Section 53 (c) of the IBA Act (1993) defines "South African music" as musical work which complies with at least two of the following requirements, namely:

i. if the lyrics (if any) were written by a South African citizen;
ii. if the music was written by a South African citizen;
iii. if the music or lyrics was or were principally performed by musicians who are South African citizens;
iv. if the musical work consists of live performance which is:
    (aa) recorded wholly in the Republic; or
    (bb) performed wholly in the Republic and broadcast live in the Republic. (53(1)(c))

This definition has been the subject of much debate. Ideally, the definition should incorporate the different requirements of the record companies, the broadcasters, collecting societies and the regulator. At the very least, there should be an attempt to standardise the definition so that all parties (including, for example, SAMRO) are using the same definition, to prevent broadcasters from having to fill out two types of log sheets. A standardised definition would also make the computerisation of the monitoring system more feasible as costs could be shared between the relevant organisations. Another suggestion aimed at assisting broadcasters is that record companies be asked to clearly mark CDs that qualify as local music.

Changing the definitions will require amending the IBA Act. Since amending legislation is a lengthy procedure involving Parliament, it might be advisable to remove the definitions from the Act and put these provisions in the Regulations. While this would require a once-off amendment to the Act, it would make it easier to change the definitions in future, should it be necessary. The Act could retain a more general statement of the objectives of the local content quota.

Q.11a. Should the current definition of South African music be reviewed? Should the Act be amended in this regard? Please offer substantiated suggestions.

12. Monitoring Methodology and Compliance

The South African Music Local Content Regulations currently require that broadcasters ensure that at least 20% of the musical works broadcast in the performance period (05h00 – 23h00) consist of South African music spread reasonably evenly over that period.

The Authority's Monitoring and Complaints Unit (MCU) has designed a logging system by which broadcasters' compliance with the regulations is measured. Radio stations submit regular logs detailing all the music broadcast on a daily basis during the performance period (05h00 – 23h00). Commercial stations are required to submit their logs on a three monthly basis; public stations are on a monthly basis; and community stations send simpler weekly reports. During the year, the MCU conducts spot checks on each station, comparing the station logs with its own data.

The MCU has released a report in October 2000 detailing public and private radio samples measured during the period between August 1999 and July 2000 (See Annexure B). Compliance was allowed to drop below the 20% quota in a single hour or day, provided that, measured over a week, the broadcaster made up the quota.

Most broadcasters were found to comply with the 20% minimum. Among the public broadcasting services, only Radio 5 and Lotus FM did not comply. They average between 15% and 18% South African music. The African language public service stations and the Afrikaans public service station, Radio Sonder Grense were found to be playing over 40%, in some cases as much as 80%, local music. Similarly, community stations targeting African listeners tended to exceed the quota.

The biggest deficiency of the system is the requirement that the information be collected manually. The high volume of paper makes efficient monitoring a problem. In addition, since the scope of the spot checks is limited, the system relies on the honesty of broadcasters' logs and is therefore open to abuse.

The Authority has investigated certain electronic monitoring systems, but in addition to budgetary limitations, the systems have yet to capture the full repertoire of music being broadcast. It is possible that an electronic monitoring system could fail to capture certain music works and thus prejudice broadcasters who are complying with the quota.

During the hearings of the Music Industry Task Team (MITT), an independent inquiry into the music industry conducted by DACST, three perceptions were repeatedly articulated:

- The Authority is not accurately and effectively monitoring local content compliance;
- Some broadcasters are not complying with the local content quota; and
- The Authority is not enforcing compliance.

These submissions regard the impact of this non-compliance on both the economics of the local music industry and on the development of South African culture as severe.

The problems that the Authority is experiencing with regard to enforcement are largely the result of the monitoring system in use. Due to the enormous amount of processing of paperwork, the Authority has only been able to address this issue once a year.

Q.12a. Are the Authority's estimates of broadcasters' compliance with the quota accurate? Please support claims with research where possible.

Q.12b. Given the requirement of the Regulations that the broadcast of South African music is reasonably spread over the performance period, is it adequate that compliance is measured over a period of a week or should it be measured over a period of a day?

Q.12c. Should there be a limit on the number of repeats that are used when calculating compliance to the quota?

Q.12d. Is there a monitoring system that is superior to the one currently used by the Authority that is cost effective, user-friendly, accurate and not open to abuse?

Q.12e. How can the Authority more effectively enforce the quota?

13. Raising the Quota

The White Paper on Broadcasting Policy (1998) requires that the South African broadcasting system should display a predominantly local content in all genres within a target period of 10 years. It is unclear as to when the 10-year period starts: on the publication of the White Paper or on the coming into effect of the Regulations. The Regulations commit the Authority to a review within three years of their coming into effect, with the intention of raising the quota and possibly improving the basis for calculating it.

During the MITT hearings, stakeholders from across the music industry called for the increase of the quota, arguing for the significant positive economic and cultural impact of a higher quota. There is considerable international evidence to support this claim. The Australian Broadcasting Tribunal regards the quota system as having been indispensable to the success of that country's music industry. Zaire's music has developed and become internationally acclaimed over the past years. This is attributed, in part, to the fact that Zaire has had an effective 100% local music quota for broadcasting.

Many broadcasters, on the other hand, argue that increasing the quota will undermine their financial viability, given the tastes of their viewers and the availability of quality South African music in certain formats. They caution that a 50% quota is economically unachievable unless South African record companies make a substantial investment in developing local talent. However, the domestic consumer market, they argue, would not generate the income that would be needed to recoup that level of investment.

The Authority is required to increase the quota. The challenge is to formulate the best and fairest way of implementing the increase and adjusting the basis for calculating the quota.

Q.13a. When does the 10-year target period, as stipulated by the White Paper, in which broadcasters are required to reach a predominant local content in all genres begin?

Q.13b. Is the financially viability of some broadcasters threatened by a 50% quota? Please substantiate response with research where possible.

Q.13c. If the quota is increased to 50%, is the South African music industry capable of

generating sufficient quality music across all formats to enable broadcasters to maintain fresh, competitive and distinctive programme standards? Please substantiate response with research where possible.

14. A format specific quota

In formulating the Regulations, the Authority noted there are different levels of local output in different musical genres, and that there may be certain formats in which radio stations have difficulty in achieving the quota. The Authority argued at the time, however, that it was premature to specify different quotas for different music formats, as the South African music and radio industry had not yet had the time to grow and develop in a politically and culturally free environment. Once the public, private and community stations were put in place and the industry had settled, the Authority felt that it would be better placed to ascertain the appropriate South African formats, their following, and the availability of South African music in each of them.

The Authority wishes to utilise this review to establish whether the radio and music industries are now sufficiently developed to benefit from the introduction of format specific quotas.

Many broadcasters argue that there is still insufficient local music available in certain formats. They argue that this is no longer the result of apartheid "ghettoisation"; rather, it reflects the reality of public taste and the music industry's capacity. The adult contemporary format is regarded as particularly difficult because of intense international competition.

There are international precedents for establishing format specific quotas. Australia implemented a variable quota after an initial period of a uniform quota. Popular music stations now have increased local content quotas while more marginal formats have lower quotas set for them. Community broadcasters have no local content obligations, save for a requirement that they produce local programming for children.

When citing the Australian experience, certain contextual issues arise. The Australian Broadcasting Tribunal maintained a uniform quota for many years before allowing it to become more flexible. It regards the quota system as having been indispensable in creating a general climate that developed Australian music and it was not until a decade after the quota was introduced that Australian music flourished.

The point here is that musical tastes in any country are significantly shaped by what is broadcast. Market research conducted by Musica in 1999 confirms this trend in South Africa: musical tastes are inclining more towards local music, partly as a response to more airtime being granted to local acts. The danger of lowering the quota of more marginal formats is that this might undermine their potential to develop larger followings in the longer term.

Another important aspect of the Australian experience is that Australia's variable quota is largely self-regulated. A representative body of stakeholders in the recording and broadcasting industries has replaced the Australian Broadcast Authority in this regard. It is debatable whether South Africa's stakeholders are ready for self-regulation, and a variable quota is undoubtedly difficult for the Authority to monitor.

Q.14a. Should the Authority introduce a format specific quota? What are the South African formats, what are their followings, and what should each of their quotas be set at?

Q.14b. Should the Authority attempt to convene a representative body of stakeholders for the purposes of self-regulation? How should this body be comprised?

15. A more flexible quota

At present, the quota is based simply on the calculation of South African music as a percentage of total music broadcast during the performance period. It has been suggested that instead, a wider range of activities should be able to contribute towards a local content quota. This would entail developing a points system in which each format is designated a minimum airtime quota and then the remainder of its quota can be made by in various ways, eg, more airtime, promotion of bands, sponsorship of concerts, interview with local musicians, information programming dealing with local music industry, training, and so on.

The issue that arises is how to weigh each of these activities against each other in calculating the quota. For example, is a ten-minute interview equal to the broadcasting of one track? Is the sponsorship of a concert or a training course equal to the broadcasting of an album?

Q.15a. ***Should the Authority introduce a variable quota based on a points system in which a variety of activities can contribute towards the local content quota? What should these activities be and how should they be weighed in relation to each other? How can empowerment and development goals be served by this system?***

Q.15b. ***Should "pay or play" be included as one of the factors that contribute towards the local content quota or is this precluded by the White Paper?***

16. Exemption

Annexure 5, clause 3.2 of the Authority's Position Paper on private Sound Broadcasting Services (1996) reads:

"The Authority may upon written application and good cause shown by the holder of a sound broadcasting licence, grant exemption from any condition imposed by sub-regulation (1) or vary such condition, it is satisfied that the exemption or variation is consistent with the objects of the Independent Broadcasting Authority Act, 1993, and any regulation made thereunder."

Certain stations that target a particular community of interest have very little or no South African music available for their legitimate purposes These stations attract advertisers and sponsors on the basis of their linguistic and cultural specificity. These stations argued that compliance with the quota undermines both their *raison d'etre* and their financial viability.

Q.16a. ***On what basis, if any, should the Authority grant exemption?***

Q.16b. ***Since the White Paper requires a predominant local content in all genres, does this imply that <u>all</u> broadcasters – public, commercial and community – are required to meet local content targets of over 50%? Does this apply to all genres of music? Does this preclude the possibility of exemption?***

17. The impact of the local content quota on the growth of the music industry

A primary intention of the South African music quota is to create an enabling environment for the South African music industry to grow and to become internationally competitive. It is difficult to accurately measure the impact of the quota due to the paucity of primary research and disaggregated statistics on the industry, but various trends and indicators have emerged.

According to a KPMG report on the South African Music Industry, the industry grew in value by 114.4% between 1992 and 1999 and has experienced annual growth since 1995. The report attributes an essential part of this growth to the increased exposure of South African artists through the broadcasters – a result of the local content quota among other factors.
South Africa's largest music chain, Musica, confirms that the quota is stimulating local music sales. Local black artists' music sales rose 215% in the first three months of 1999 compared to the year-earlier period. Afrikaans artists' sales showed a 52% increase. Musica attributes the change of musical tastes in South Africa partly to a response to more airtime being granted to local acts as a result of the quota.

A joint ASAMI/MUSA proposal to DACST is more cautious; noting that the introduction of the quota has had a positive, if limited effect on some but not all sectors of the local industry. The proposal does argue, however, that lack of compliance with the quota is depriving the industry of the full benefits of the quota.

The KPMG Report argues for the paramount role of domestic repertoire in building a strong and growing music industry. The industry's success, it argues, is therefore contingent on its capacity to nurture, record and promote local talent. Recent growth patterns, stimulated by the quota, have meant that the record companies have had more to invest in the development of local talent.

Q.17a. Has the local content quota impacted on the growth of the South African music industry? Have there been different impacts on different formats? Please substantiate response with research where possible.

Q.17b. Has the local content quota impacted on the empowerment of previously disadvantaged

individuals? How can the quota be designed and implemented to increase its impact on empowerment?

Q.17c. Is there any measurable support for South African music programming?

Q.17d. What is the impact of the quota on the audiences of radio stations?

18. The Broader Policy Environment

The local content quota is part of a package of strategies developed by the government to promote local music. DACST's Cultural Industries Growth Strategy (1998), as reflected in the KPMG report, outlines a collaborative vision that includes the following:

- Developing a home for South African music;
- Improved promotion of South African music;
- International market research;
- Joint export promotion;
- Human resource development;
- Developing cultural quarters;
- Exploiting tourism;
- Building international exposure.

The DoC's White Paper on Broadcasting Policy (1998) also suggests various strategies including:

- Ensuring that local content predominates in all genres within a ten year period;
- Establishing a South African Broadcast Production Agency to support and promote local content production.

A number of factors have been identified as hindering the growth of the South African music industry. While addressing these problems is not directly part of the Authority's mandate, they are worth mentioning because of their gravity.

18.1. Piracy

Rampant piracy - on cassettes, compact discs and the Internet - is the greatest threat to the music industry. Many submissions to the MITT call on government to clamp down on piracy through more effective legislation and policing.

18.2. Payola

There is widespread concern about the practice of "Payola" in which improper deals are struck between recording companies and radio music compliers or disc jockeys. Also, certain disc jockeys seem to be producing music that they then play, which unfairly advantages that music.

One suggestion offered to contain Payola is to develop a standardised set of criteria whereby broadcasters reject and accept products.

18.3. Needletime

Under the current legislation, performers enjoy no copyright protection – this right is confined to composers and authors. The music industry argues that the absence of needletime legislation is one of the key obstacles to the development of local music and the music industry. Broadcasters, on the other hand, argue that they cannot afford an additional royalty or levy. Some propose, instead, that they contribute towards a fund for the development of South African music. Considerable resources have been spent debating needletime, and government's resolution of the issue would be advantageous to the music industry.

Q.18a. How can the Authority better interface with the various government policies and structures developed for the promotion of the industry, particularly with regard to the issues of piracy, payola and needletime?

Q.18b. As a measure to combat Payola, could the Regulations assist in ensuring that a diversity of local music is broadcast? How would this be drafted?

D. ADDITIONAL ISSUES

The Authority seeks input on two additional issues that have a bearing on the review of the music and television local content regulations.

19. GATT and the WTO

Liberalised trade and the increased global flow of capital are major factors driving policy for any country. One the pressing issues for the cultural and broadcast sectors is the status of cultural goods and services with regard to the World Trade Organisation (WTO).

While cultural goods and services are commercially exchanged, there are also non-commercial aspects of culture that lie beyond the purview of international trade agreements. In as much as culture embodies national and local identities and is essential to social communication, it is irreducible to the status of a commodity. This dual nature of cultural goods and services has caused a long-standing conflict in multilateral trade negotiations.

The United States calls for a totally free and open market in cultural products and is attempting to amend current WTO policy in this regard. The US government, representing its media production industry, has also criticised the European broadcast quota as being unfair protectionism and violative of the General Agreement on Trade and Tariffs (GATT).

UNESCO's view, on the other hand, as articulated in the Stockholm Action Plan of 1998, is that "cultural goods and services should be fully recognised and treated as not being like other forms of merchandise." The International Network on Cultural Policy, comprising about fifty ministers of culture (including South Africa), adopts UNESCO's view and, in addition, recognises the right of governments to establish their cultural policies freely as well as to adopt the means and instruments necessary for their application.

Should the US lobby succeed in amending WTO policy with regard to the exceptional status of cultural goods and services, there will be serious implications for the local content quotas.

20. The New Technologies

New communications and information technologies, as well as the growing convergence between media, entertainment and telecommunications, pose both a threat to indigenous cultures and an opportunity to extend the creation and distribution of cultural products and services. The trend internationally is towards the worldwide homogenisation or standardisation of culture resulting from the increasing dominance of US cultural content.

The White Paper on Broadcasting Policy notes that the present lack of capacity of South Africa to produce adequate levels of local content will translate into further disadvantage in the era of convergence and new media. It also points out that local content regulation will be severely tested by the emergence of new distribution platforms. New distribution techniques make content quota requirements difficult to monitor and implement.

If South Africans are going have access to South African, as well foreign, choices on air and on the Web, our cultural creators and broadcasters will require support – financial, technological and legal. The new technologies can be turned to South Africa's advantage if we are able to use the new channels opened to create two-way flows of products and intellectual property.

Q.20a. How should South Africa approach the issue of the status of cultural goods and services with regard to GATT and the WTO?

Q.20b. What measures can be taken to support the South African cultural and broadcast industries with regard to the new technologies?

E. CONCLUSION

The primary purpose of this Discussion Paper is to give all interested parties the opportunity to contribute their views. Should the Paper fail to raise pertinent issues and questions, you are invited to make submissions in this regard. Likewise, any additional relevant research would be welcomed.

F. TIME FRAMES

	DUE DATE
1. Publish the Discussion Paper	7th December 2000
2. Written submissions	31st January, 2001
3. Hearings	26th Feb – 9th March, 2001
4. Publish regulations and Position Paper	30th March, 2001

Written submission to be addressed or faxed to:

Policy and Technical Department
ICASA
Block d, 164 Katherine Street, Pinmill Farm, Sandton
Private Bag x10002, SANDTON, 2146
Telephone: (011) 722-0000
Facsimile: (011) 448-2414

Any interested person who submits written presentations should indicate whether he or she requires an opportunity to make oral presentation at the hearing.

The closing date for the receipt of representation is the 31ST January 2001,at 16h30.

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ANNEXURE A:

INDEPENDENT BROADCAST AUTHORITY LOCAL TELEVISION CONTENT REGULATIONS

The Independent Broadcasting Authority has under sections 53 (1) (v) and (vi), 53 (2), 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. Preamble

The objective of these regulations is to develop, protect and promote a national and provincial identity, culture and character. In achieving this these regulations will seek to promote programming which:

1.1 is produced under South African creative control;

1.2 is identifiably South African, is developed for South African audiences and which recognises the diversity of all cultural backgrounds in South African society;

1.3 will develop a television industry which is owned and controlled by South Africans;

1.4 will establish a vibrant, dynamic, creative and economically productive South African film and television industry.

2. Definitions

In these regulations any word to which a meaning has been assigned in the Independent Broadcasting Authority Act (Act 153 of 1993), as amended, shall have that meaning unless the context indicates otherwise.

2.1 "Animation " means any form of television programming in which the images of character and action are made by photographing drawings, puppets or similar images in order to create the illusion of movement and includes such images created by computers;

2.2 "Children's programming" means programming in any format, which is specifically produced for persons under the age of 15 years, which contributes to the well-being and social, emotional and intellectual development of persons in this age group, which are made from their point of view, and which are broadcast at times of the day when persons in this age group are available in substantial numbers to watch;

2.3 "Co-production" means a programme produced under circumstances in which the persons referred to in section 53 (1) (ii) or (iii) of the Act have at least equal decision-making responsibility with the co-venture partners in respect of all the creative elements of the production;

2.4 "Current affairs programming" 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;

2.5 "Documentary drama" means a fully scripted screen play in which the central theme is an event or events which actually occurred and in which actors are used to play the part of real characters who were involved in the events portrayed.

2.6 "Documentary programming" means a factual treatment or analysis of people, events or social issues, whether past or present, with a normal minimum duration of about half an hour with a single theme.

2.7 "Drama" means an audio-visual interpretation whether involving live actors or animation of a fully scripted screenplay or teleplay, literary work, dramatic work, folklore or improvised storytelling or performance, in which the dramatic elements of character, theme and plot are introduced and developed so as to form a narrative structure. It includes genres of drama such as situation comedy, soap operas and other genres in any of the following formats: one-off dramas including feature films, tele-plays and tele-movies, animated dramas, episodic drama series, serial dramas, mini-series and documentary drama.

2.8 "Educational programming" means programming in any format, specifically and primarily designed to support structured educational activity whether such structured activity relates to institutional-based education or to non-institutional-based learning;

2.9 "Informal knowledge-building programming" means programming in any format which provides information on subjects such as, for example, science, technology, health, law and citizens' rights, religion, business, finance and the natural or built environment;

2.10 "Key personnel", as contemplated in section 53 (1) (a) (v)" means the director/s, writer/s, at least 50% of the leading actors appearing in the programme, at least 75% of the major supporting cast, the production designer, the director of photography, the editor and the composer of original musical score;

2.11 "Post-production" means the processes following completion of production including the editing of images and sound, creation of special visual effects, subtitling, processing and duplication of programmes as well as any other process necessary for the completion of the production.

2.12 "Prime time" means the period between 18H00 and 22H00 every day;

2.13 "Produced" means a process of acquiring and/or developing a story or programme theme, selecting and engaging key creative personnel and exercising control over decisions relating to the development, costing, pre-production, production and post-production of the programme;

2.14 "Production" means the recording of images and sound to form the substantial and integral part of the programme.

2.15 "Production costs" in circumstances referred to in section 53 (1) (a) (vi) of the Act means at least 80% of the pre-production and production costs are incurred in the Republic and that the post-production costs are wholly incurred in the Republic;

2.16 "South African drama" means drama programming which consists of local television content and in which South Africans have exercised direction over the creative and administrative aspects of pre-production, production and post-production. South Africans will be taken to have exercised such direction if:

2.16.1 in the case of programmes which have been produced in terms of section 53 (1) (I), (ii), (iii) or (iv):

(a) the director or directors of the programme and/or the writer or writers of the programme are South African; and

(b) not less than 50% of the leading actors appearing in the programme are South African; and

(c) not less than 75% of the major supporting cast, are South African; and

(d) not less than 50% of the crew are South African; and

(e) the post-production is wholly done in South Africa.

2.16.2 in the case of programmes produced in terms of section 53 (1) (v) and (vi):

(a) the key personnel are South African; and

(b) not less than 50% of the production crew are South African; and

(c) the post-production is wholly done in South Africa.

2.17 "South African television performance period" means the total number of hours between 05H00 and 23H00 every day.

2.18 "Subscription service provider" means either a person engaged in the compilation of programme material or the holder of a television broadcasting licence for the provision of a subscription television broadcasting service to South Africa whether such service is of a terrestrial or non-terrestrial nature;

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

3. Public Television Licensee

3.1 A public television licensee must ensure that after five years of these regulations coming into effect in the case of an existing licence holder and within eighteen months of the issue of a licence or such longer period as the Authority may determine, at least 50% of its programming during the South African television performance period and during prime time consists of local television content.

3.2 Where a public television licensee provides a broadcasting service which has more than one channel, that licensee must ensure that after two years of these regulations coming into effect across all channels a weekly average of 30% local television content during the South African television performance period is achieved, provided that on any one channel the licensee broadcasts a minimum of 25% local television content.

3.3 In complying with its obligations in terms of Sections 3.1 and 3.2 above a public television licensee must ensure that at least:

i) 20% of its drama programming consists of South African drama;

ii) 80% of its current affairs programming consists of South African current affairs;

iii) 50% of its documentary programming consists of South African documentary programming;

iv) 50% of its informal knowledge building programming consists of South African informal knowledge building programming;

v) 60% of its educational programming consists of South African educational programming;

vi) 50% of its children' programming consists of South African educational programming.

4. Private Television Licensees

4.1 The private television licensee must ensure that after two years of these regulations coming into effect or such longer period as the Authority may determine, a weekly average of 20% of its programming in the South African television performance period consists of local television content.

4.2 A private television licensee must ensure that at the commencement of its broadcasting service it achieves a weekly average of 10% of local television content during the South African television performance period.

4.3 In complying with its obligations in terms of Section 3.1 above, a private television licensee must ensure that at least:

i) 10% of its drama programming consists of South African drama;

ii) 50% of its current affairs programming consists of South African current affairs;

iii) 25% of its documentary programming consists of South African documentary programming;

iv) 25% of its informal knowledge-building programming consists of South African informal knowledge-building programming;

v) 20% of its children's programming consists of South African children's programming.

5. Subscription Television Service Providers

5.1 A private subscription television service provider must ensure that a weekly average of 5% of its programming, or some greater proportion as may be determined by the Authority, during the South African television performance period consists of local television content within such categories as the Authority may determine.

5.2 Where a portion of the broadcasting service of a private television subscription provider is unencoded, then for the duration of that unencoded portion, it must ensure that a weekly average of 20% of its programming consists of local television content within such categories as may be determined by the Authority.

5.3 The Authority may, in lieu of the obligations on the private subscription television service provider in terms of sections 4.1 and, only in respect of its encoded broadcasting service referred to above, direct that the licensee must expend a specified sum of money as may be determined by the Authority on programming which has a local television content.

6. Independent Television Production

6.1 Public and private television licensees and subscription television service providers must ensure that at least 40% of their local television content programming consists of programmes which are independent television productions and the independent television productions are spread reasonably evenly between, where applicable, South African drama, South African documentary, South African informal knowledge-building, South African children's and South African educational programming.

7. Records

7.1 Public and private television licensees and subscription television service providers must keep and maintain logs, statistical forms and programme records in a format specified by the Authority:-

(a) full particulars of all local television content programming broadcast in each week, indicating each category of local television content, as defined in 3.3. and 4.1. and

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

7.2 The logs, statistical forms and records contemplated in sub-regulation (1) must be preserved for a period of not less than 36 months after the last date of entry.

8. Review of Regulations

8.1 The Authority may, two years after these regulations have come into effect, hold an inquiry to review the performance of a licensee's achievement of the local content quotas specified in these regulations.

8.2 In reviewing the performance of the licensee the Authority shall determine the procedure to be followed during the inquiry.

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

9. Name of Regulations

These regulations may be cited as the Independent Broadcasting Authority Local Television Content Regulations of 1997.

ANNEXURE B:

SOUTH AFRICAN CONTENT REVIEW: MONITORING REPORT OF THE MONITORING AND COMPLAINTS UNIT OF ICASA (OCTOBER 2000)

1. MUSIC

Enforcement of this and other regulations of the Authority are the duty of the Monitoring and Complaints Unit (MCU). A logging system was designed, for the Authority by the MCU, which would measure broadcasters' compliance with the South African content regulation. This entailed sound broadcasters submitting logs detailing the songs that were played during the South African performance period (11h00-23h00). Broadcasters were required to make this information available to the Authority on a monthly basis. This information would then be analysed to ascertain compliance.

It became evident after the system was put into operation that it was deficient and time consuming since it involved the manual processing of information submitted and the handling and analysis of huge volumes of paper. This appreciably made effective monitoring on a month to month basis difficult. In addition, numerous complaints were received from broadcasters about the system. While investigating the possibility of a more efficient and accurate technologically based monitoring system, there was a need to develop an interim system that would be more efficient than the initial method. This system was implemented in August 1999.

The process entailed modifying the weekly programme log that had been used for some time by community broadcasters. The weekly programme log was modified to enable it to capture an indication, in percentages, of South African and foreign music. This programming log details broadcasters' programming and a breakdown, in percentages, of South African and foreign music over a period of a week. This system ensures regular reports on the broadcasters' output. Community broadcasters continue to fill in and keep logs that detail songs played during the performance period. The broadcasters must keep these logs for a period as stipulated in the South African Music content regulation.

Public sound broadcasters still submit the original detailed logs since they complained that changing to the new system would unbearably stretch their human resources – discussions are still continuing to find a system that would be agreeable to both parties. Private sound broadcasters are required to submit the logs on a three-monthly basis.

The MCU conducts regular programming spot-checks in an attempt to ascertain the degree to which information provided by broadcasters matches the actual broadcasts. However, this system is open to abuse since the MCU relies on the honesty and goodwill of broadcasters to provide accurate information. Already there is a trend among some broadcasters to merely copy the same information every week.
In some instances there continues to be misunderstandings in terms of the proper filling in of logsheets and thus compounding the difficulty of achieving the degree of accuracy that is required for sharper enforcement.

Broadcasters

The IBA Act makes provision for three broad categories of sound broadcasters in South Africa. These categories are Community, Public and Commercial/Private broadcasting services.

Each of these categories will be discussed below in terms of the nature of their operation, problems encountered by them – if any – in meeting the 20% South African music quota and the trends that have emerged in dealing with the quota.

Community Broadcasters

Geographical community and community of interest are the two (2) sub-categories that make up the community radio sector.

Geographic community

These radio stations are licensed to serve a geographically demarcated community, for example, the community of Soweto. This type of broadcaster operates along the lines of a "General Dealership" since the community includes everyone from children to the elderly.
Most of the broadcasters in this category have managed to meet and in some instances exceed the quota. This (exceeding the quota) is especially true for broadcasters in the historically disadvantaged communities where kwaito music thrives next to mbaqanga, choral music and even rhythm & blues.

Strictly speaking, and given the fact that broadcasters in this category should serve as "General Dealerships", unless specified, this is one of the categories that one would expect record companies to work closely with in terms of introducing and touting new talent. However, an informal survey by the MCU, stations from this sector, generally complained that they almost never see record company representatives. This was particularly true for those broadcasters that are in the semi-urban to rural areas. Given this complaint, it can be deduced that the promotion of South African music suffers, as often these broadcasters have to struggle to get funding to buy music.

Community of interest

These radio stations are licensed to cater to the needs of a particular group(s) within a community and these may be distinguishable by a definable interest, for example, cultural background. Although the listenership may also range from children to adults, their needs are often less diverse since they may largely be concerned with the perpetuation of culture or addressing issues related to a particular interest group.

Most of the radio stations in this category fulfil the required quota. A lot of them tend to broadcast in and play music that is of a language that is in the minority in South Africa – for example, Chinese Community Radio. Often South African music recorded to fit in with their specific purpose is at best negligible and at worst non-existent. These broadcasters often have to resort to playing music that is not specific to their community's interest or culture.

Conclusion:

Problems claimed by the Community Radio sector might vary from area to area, but broadly include the following:

Lack of or inadequate funding to buy music

- Record companies' preference to deal with the bigger commercial stations in terms of distribution of new music.
- Some radio stations are based far from Johannesburg and this further compounds distribution difficulties.
- Record companies do not release enough reissues.
- Record companies do not release enough music for their target audience, for example, community of interest stations.

Public Broadcasting Services

This category is made up of public broadcasters under the auspices of the South African Broadcasting Corporation (SABC). These radio stations either have a national or regional reach and are often defined along linguistic/cultural lines.

All of the Public broadcasting services have been found to adhere to the quota with the exception of Good Hope FM, Lotus FM and Lesedi FM. Neither Lesedi FM nor Lotus FM submitted any music logsheets for establishing their output levels. The African language (including Afrikaans) services have consistently played over 30% - in some instances the percentages even reach 60%. The English language services hover just above 20%. Good Hope FM has simply not been reaching the desired levels – they average between 10 and 13 percent South African music.

Private Broadcasters

Broadcasters in this category are privately owned. Consequently, their programming is tailored to attract a specific audience – for example, the youth, classical music lovers or adult contemporary.

All of the private broadcasting services have been found to adhere to the quota with the exception of Highveld Stereo and P4 – Cape Town. Highveld Stereo did not meet the quota and its average hovers between 12 and 19 percent. P4 – Cape Town simply did not submit any records for verification.

There have been allegations against these broadcasters from musicians and some production houses who claim that these radio stations often reject their material with the constant excuse that the music is of an inferior quality while overseas artists are given airplay even when the quality is suspect. Another source of discontent is the trend among disc jockeys/presenters to record CDs and these are guaranteed airplay not only on their respective radio stations but on most other broadcasters as well. This reasonably raises ethical questions in terms of what qualifies as acceptable standards.

Problems encountered by this sector in a survey by the MCU include the following:

- Not enough production from artists in the various formats.
- Poor quality of a number of locally produced artists/CDs.
- Some genres do not fit in with their audience profile.
- Compliance versus financial viability – advertising.

Conclusion and Recommendations

The introduction of the South African music quota was an important step in the cultural development of the country. Given the above, it is evident that most broadcasters, particularly public and community radio stations, support the idea of a quota and take compliance thereof seriously. In 1999 the MCU compiled a similar report, focussing on the private and public sectors. The approach, with broadcasters found not to have complied, was to discuss problems and explain the need for compliance. Following these discussions those broadcasters committed themselves to improving their output and complying with the requirements. Attached as Appendix 1 of this document is the 1999 report, from which it is clear who did not comply then. Compared with this report a significant improvement is visible but certain broadcasters still do not comply.

The following problem areas need to be addressed:

The first problem would be the definition of “South African Music". The definition used by the Authority does not necessarily agree with one used by other stakeholders in the industry, for example, the record companies and/or the various collection agencies. Also, the type of information that makes up the Authority’s definition is not readily available on CD sleeves or from record companies. As a starting point, it would be preferable that all stakeholders come together to formulate a definition that fits into South Africa’s unique cultural and socio-economic milieu. This would ensure a common understanding of what constitutes South African music.

The question of the applicability of the quota also needs to be reviewed. Given the fact that the purpose of this regulation is to develop rather than to make up numbers, blanket application becomes problematic. The questions to ask would be whether to extend concessions to certain types of broadcasters and if so what alternative role can they play in aiding the development of South African music.

The ethical questions raised by the trend among Disc Jockeys to record with the knowledge that they have ready access to the airwaves while there are allegations from musicians/recording companies that radio stations often turn down their products also needs to be addressed by the broader industry. Some organisations suggested that a set of criteria needed to be developed to determine the grounds on which broadcasters can accept or reject products from the recording industry.

Once the above factors have been dealt with, the crucial factor becomes that of effective monitoring. As already indicated above, the current monitoring system employed by the MCU is not effective or foolproof. This has resulted in the inability of the Authority to conduct effective monitoring that will ensure that defaulters are made to account before the Broadcasting Monitoring and Complaints Committee (BMCC) of the Authority. Secondly, because the monitoring system has loopholes, it is open to abuse by broadcasters, particularly those who were opposed to a quota system for various reasons from the beginning.

It is, therefore, critically important that all stakeholders – including recording artists, companies and collection agencies – must, in conjunction with the Authority, investigate and invest in an effective and technologically advanced monitoring system to enforce compliance. This is certainly even more critical to the collection agencies whose stake in the whole matter is largely financial.

Once a credible monitoring system is in place, monitoring of the quota must be on an ongoing basis and defaulters can be dealt with more effectively.

2. TELEVISION

Background

In May 1997 the then Independent Broadcasting Authority, presently Independent Communications Authority of South Africa has under section 53(1) (v), 53 (4) and 53 (5) read with section 78 (1) of the IBA Act, (Act of 1993), made the regulations for public and private television services on local content.

The aim of this report is to monitor the licensee in terms of compliance with local content regulations.

Public television

Regulation 3.3 stipulates that a public television licensee must ensure at least the following:

- 20 % of its drama must be South African;
- 80 % of its current affairs programming must consist of South African affairs;
- 50 % of its documentary programming must consist of South African documentary programming
- 50 % its informal knowledge building programs must consist of South African informal knowledge building programming;
- 60 % of its educational programming must consist of South African educational programming;
- 50 % of its children' programming consist of South African education programming.

Methodology: This was done by calculating the percentages of programming which the channel is required to broadcast and the standard used to calculate these percentages was the South African performance period which is from 05H00 to 23H00 everyday. These percentages are based on the programming schedules of these broadcasters, verified through spot-check monitoring over a period.

- **SABC 1**

The figures indicated below represent an output of this channel during August and September 2000.

CATEGORY	AVERAGE PERCENTAGE
Drama	19.6 %
Documentary	0.0 %
Informal Knowledge Building	100 %
Education	100 %
Current Affairs	100 %
Children's programmes	13.4 %
News	100 %
Total Local Content	32 %

Conclusion:

SABC 1 is complying with the requirements of a public broadcaster as it is achieving a minimum of 25 % local tv content (clause 3.2 of the regulations). There is a good coverage of educational, informal knowledge, news and current affairs. . During the period monitored documentary programming (definition: a factual treatment or analysis of people, events or social issues, whether past or present, with a normal minimum duration of about half an hour with a single theme) were not aired at all.

- **SABC 2**

The figures indicated below represent an output of this channel during the August and September 2000.

CATEGORY	AVERAGE PERCENTAGE
Drama	45.3 %
Current Affairs	100 %
Documentary	55 %
Informal Knowledge Building	65 %
Educational Programming	80 %
Children's programming	66 %
News	100 %
Total Local Content	57.6 %

Conclusion:

ANNEXURE B

This channel has exceeded the minimum requirements of the regulations on South African content.

- **SABC 3**

The figures indicated below represent an output of this channel during August and September 2000.

CATEGORY	AVERAGE PERCANTAGES
Drama	31.9 %
Current Affairs	100 %
Documentary	57.5 %
Educational Programming	75.3 %
Informal Knowledge Building	63.2 %
Children's Programming	0.0 %
News	100 %
Total Local Content	49.8 %

Conclusion:

The analysis of channel 3 indicates that it is complying with the requirements as set in the regulations by achieving a minimum of 25 %. SABC 3 has a balanced local content, looking at its categories drama, educational programming, informal knowledge building, news and current affairs.

MCU found that all three channels were generally complying with the Local Content regulations.

Subscription Television Service Providers

Regulation 5.1 stipulates that:
A private subscription television service provider must ensure that a weekly average of 5% of its programming, or some greater proportion as may be determined by the Authority, during the South African television performance period consist of local television content within such categories as the Authority may determine.

Regulation 5.2 stipulates that:

Where a portion of the broadcasting service of a private television subscription provider is unencoded, then for duration of that unencoded portion, it must ensure that a weekly average of 20% of its programming consisting of a local television content within such categories as may be determined by the Authority.

Methodology:

MNET was monitored for the Months of November 1999 – April 2000
(Six months). The South African performance period (05H00-23H00) was used to ascertain the average.

PROGRAMME CATEGORY	AVERAGE PERCENTAGE
MNET Encoded Time	8.4 %
MNET Open Time (Local Drama)	18.8 %
CSN (Performance Period)	11.4 %

Conclusion

Apart from local drama during unencoded time, MNET exceeds the requirements of the regulations and is therefore complying with its licence conditions and requirements. Before this report was undertaken MNET notified the Authority of the fact they were not complying with the open time, local drama requirement percentage. They said that this was due to a calculation problem on the side of MNET. The MCU has confirmed this. This matter is being investigated together with other issues arising fom MNET's first licence year.

Free to air Private Television Service

E-tv

Regulations relating to local television content for private television licensee stipulates that the licensee must ensure the following:

- 10 % of its drama programming consist of South African drama
- 50 % of its current affairs programming consist of South African current affairs
- 25 % of its documentary programming consists of South African documentary
- 25 % of informal knowledge building programming consist of South African informal knowledge
- 20 % of its children' programming consist of South African children' programming

The private television licensee must ensure that after two years of the regulations coming into effect, a weekly average of 20% of its programmes in the South African television performance period.

CATEGORY	PERCANTAGE
Documentary	27 %
Informal Knowledge	37 %
Current Affairs	64 %
Children'programming	22 %
Drama	2 %
Total Local Content	27.9%

Conclusion:

E-tv is only required to meet the local drama requirements in its second year of broadcast. The channel has exceeded all other requirements of the regulations.

Independent Television Production

Regulation 6.1(Independent television production) states the following:

Public and private television licensees and subscriptions television service providers must ensure that at least 40 % of their local television content programming consists of programmes which are independent television productions are spread reasonably evenly between, where applicable, South African drama, South African informal knowledge-building, South African documentary, South African children's and South African educational programming.

The provision is extremely difficult to monitor, as it requires extensive research into the ownership and control structures of each production company used by broadcasts. The MCU could find no information that suggests that any of the broadcasters mentioned in this report did not comply with this provision. This is a grey area and its difficult to monitor.

S.A. MUSIC CONTENT - COMMUNITY BROADCASTERS

MONTHLY: AUGUST '99 - JULY '00

BROADCASTERS	AUG	SEPT	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUNE	JULY
ADDULAM	51.00%	54.75%	52.40%	46.25%	53.40%	DNS	DNS	DNS	DNS	DNS	DNS	DNS
AL SAUT	DNS	DNS	DNS	DNS	DNS	DNS	DNS	DNS	DNS	DNS	DNS	DNS
ALX FM	58.75%	65.38%	56.80%	55.75%	57.20%	63.25%	60.80%	63.00%	60.75%	60.00%	50.25%	43.10%
ATLANTIS	23.00%	22.83%	24.44%	22.25%	22.80%	22.75%	23.20%	20.50%	33.50%	35.75%	38.75%	32.20%
BARBERTON	62.30%	65.50%	63.08%	61.75%	58.20%	57.75%	62.20%	66.75%	59.00%	59.00%	60.00%	65.40%
BBT	56.00%	56.00%	44.80%	56.00%	44.80%	56.00%	44.80%	56.00%	56.00%	56.00%	56.00%	44.80%
BUSH	21.23%	20.75%	38.52%	38.00%	24.60%	33.25%	34.00%	36.75%	32.25%	27.75%	25.00%	27.60%
BUSHBUCKRIDGE	DNS	DNS	DNS	65.00%	DNS	DNS	DNS	DNS	DNS	DNS	DNS	DNS
CAMPUS BAY FM	17.25%	16.50%	24.20%	24.00%	19.20%	31.25%	15.40%	37.00%	37.00%	37.00%	37.00%	37.00%
CAN-I FM	DNS	DNS	DNS	DNS	DNS	DNS	DNS	DNS	off air	off air	off air	off air
CCFM	25.75%	27.00%	32.00%	28.75%	27.28%	29.25%	29.00%	49.25%	30.25%	27.25%	35.50%	31.20%
CHINESE COMM	23.50%	24.25%	21.00%	22.50%	20.00%	35.00%	22.00%	23.00%	27.25%	17.25%	26.50%	0.00%
DURBAN YOUTH	DNS	DNS	DNS	DNS	DNS	32.25%	29.40%	DNS	DNS	27.00%	DNS	DNS
EAST RAND	57.50%	DNS	DNS	57.75%	57.40%	60.75%	60.20%	60.00%	60.00%	60.00%	60.50%	48.00%
EAST WAVE	DNS	DNS	DNS	22.75%	21.72%	21.60%	22.28%	22.75%	21.71%	21.75%	21.25%	22.60%
FINE MUSIC RADIO	20.15%	20.15%	20.20%	20.11%	20.20%	20.00%	20.32%	20.15%	20.11%	20.15%	20.15%	20.12%
GOODNEWS COMM	25.55%	29.50%	24.44%	23.04%	27.20%	27.50%	21.40%	27.00%	32.95%	32.83%	29.50%	5.60%
GRAAF-REINETTE	38.00%	37.25%	47.00%	46.25%	48.00%	42.50%	37.20%	38.50%	38.00%	38.75%	40.25%	41.80%
HELDERBERG	30.50%	27.00%	25.60%	26.75%	27.88%	33.05%	31.76%	19.85%	24.75%	26.75%	26.58%	26.40%
HIGHWAY RADIO	34.00%	28.25%	23.60%	32.05%	25.00%	34.80%	24.16%	31.05%	33.48%	33.35%	30.00%	24.60%
IMPACT	22.00%	22.00%	19.38%	22.25%	19.52%	20.50%	20.40%	20.90%	19.58%	20.25%	21.20%	19.96%
ISCORIAN	34.25%	29.33%	27.60%	26.18%	27.80%	29.25%	27.20%	25.75%	29.10%	32.35%	32.25%	30.80%
KANGALA	67.25%	66.00%	66.20%	48.50%	52.00%	70.25%	70.20%	70.00%	69.50%	70.00%	60.25%	55.20%
KHWEZI FM	45.25%	42.00%	45.40%	45.25%	34.60%	58.50%	59.60%	61.93%	62.25%	58.50%	60.50%	64.80%
KINGFISHER	DNS	DNS	DNS	DNS	DNS	25.25%	29.00%	29.50%	36.00%	36.00%	35.00%	31.20%
LINK FM	32.75%	17.75%	15.60%	0.00%	33.80%	33.75%	33.00%	38.50%	43.50%	32.75%	35.75%	35.40%
MAFISA	DNS	DNS	58.00%	58.00%	57.20%	55.25%	34.20%	DNS	DNS	DNS	DNS	DNS
MARITZBURG	DNS	DNS	DNS	DNS	DNS	DNS	DNS	DNS	DNS	DNS	DNS	DNS
MATIE FM	DNS	DNS	DNS	34.00%	34.20%	DNS	33.40%	31.25%	31.00%	31.50%	34.00%	27.00%
MOUTSE	55.00%	37.25%	42.40%	72.25%	56.80%	50.75%	58.60%	15.75%	67.50%	63.25%	42.75%	0.00%
NAMAQUALAND	88.00%	89.00%	89.00%	91.00%	95.00%	87.00%	96.00%	97.00%	97.00%	95.00%	88.00%	96.00%
NEW PANHELLENIC	DNS	DNS	DNS	DNS	DNS	DNS	DNS	DNS	DNS	DNS	DNS	DNS
OVERVAAL STEREO	DNS	DNS	DNS	75.60%	79.16%	79.25%	79.00%	77.25%	78.65%	79.25%	79.00%	78.40%
PANORAMA	DNS	DNS	DNS	DNS	DNS	DNS	DNS	DNS	DNS	DNS	DNS	DNS
PHOENIX	8.75%	5.25%	DNS	DNS	DNS	10.50%	2.80%	DNS	DNS	DNS	DNS	DNS
RADIO 1584	DNS	DNS	DNS	DNS	DNS	DNS	DNS	DNS	DNS	DNS	DNS	DNS
RADIO 7	39.25%	38.75%	32.80%	81.00%	76.20%	81.00%	80.80%	78.75%	83.40%	83.80%	83.00%	80.00%

BROADCASTERS	AUG	SEPT	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUNE	JULY
RADIO 786	67.88%	62.03%	61.90%	60.63%	66.80%	63.25%	62.40%	63.00%	64.00%	68.50%	67.75%	62.00%
RADIO HORIZON	32.00%	32.00%	24.00%	23.60%	19.20%	24.00%	19.20%	45.13%	46.00%	11.50%	32.00%	25.60%
RADIO ISLAM	DNQ	DNQ	DNQ	DNQ	DNQ	DNQ	DNQ	DNQ	DNQ	DNQ	DNQ	DNQ
RADIO PRETORIA	62.75%	64.00%	66.40%	81.50%	58.80%	65.75%	84.80%	85.25%	85.75%	89.25%	83.00%	79.80%
RADIO PUK	21.25%	24.00%	24.60%	25.25%	26.80%	13.50%	21.40%	27.00%	20.25%	27.50%	26.00%	19.80%
RADIO RIPPEL	29.00%	38.15%	34.88%	27.25%	31.80%	18.50%	23.00%	25.50%	24.75%	25.75%	28.50%	25.40%
RADIO TODAY	20.75%	20.75%	20.80%	20.00%	20.00%	19.75%	19.60%	19.75%	19.75%	19.75%	19.75%	20.80%
RADIO TUKS	24.75%	26.75%	28.80%	29.00%	32.40%	29.50%	30.60%	29.25%	26.75%	27.00%	26.85%	26.40%
RADIO TURF	45.00%	45.00%	45.00%	45.00%	36.00%	47.50%	47.50%	47.50%	47.50%	47.50%	47.63%	47.50%
RADIO TYGERBERG	19.50%	DNS	DNS	DNS	DNS	DNS	21.40%	21.75%	76.75%	21.55%	20.75%	DNS
RADIO WEST RAND	21.25%	30.25%	34.00%	DNS	DNS	32.75%	40.80%	40.00%	30.00%	DNS	DNS	DNS
RHODES MUSIC	DNS	DNS	DNS	DNS	DNS	DNS	DNS	DNS	DNS	DNS	DNS	DNS
RAINBOW	48.75%	48.75%	39.60%	49.25%	39.40%	50.00%	40.20%	49.50%	52.75%	50.25%	48.75%	35.80%
ROSESTAD	59.00%	59.00%	DNS	DNS	DNS	DNS	58.00%	58.00%	58.00%	58.00%	57.50%	56.80%
S-FLAT	26.00%	28.13%	27.36%	27.25%	DNS	DNS	DNS	DNS	DNS	DNS	DNS	DNS
SESHEGO	DNS	DNS	DNS	DNS	DNS	DNS	DNS	DNS	DNS	DNS	DNS	DNS
SHIMLA	DNS	DNS	DNS	DNS	0.00%	27.00%	25.40%	25.75%	25.50%	37.00%	37.00%	30.40%
SOSHANGUVE	DNS	DNS	DNS	75.00%	DNS	70.00%	56.00%	DNS	70.00%	70.00%	70.00%	DNS
VOICE OF SOWETO	33.50%	34.75%	33.50%	41.00%	38.60%	36.50%	37.00%	DNS	DNS	50.50%	DNS	DNS
JOZI FM	67.00%	40.75%	54.40%	50.25%	50.80%	57.25%	46.12%	56.70%	44.33%	57.73%	56.35%	53.60%
SUIDKAAP STEREO	59.50%	44.25%	47.60%	60.00%	60.00%	60.00%	60.00%	60.00%	60.00%	60.00%	60.00%	60.00%
TEEMANENG	DNS	DNS	DNS	DNS	DNS	DNS	DNS	DNS	52.50%	52.00%	51.75%	0.00%
TEKS FM	DNS	56.25%	27.80%	49.25%	54.80%	47.75%	29.40%	41.50%	42.75%	28.75%	27.75%	18.80%
TNG	57.10%	59.10%	46.00%	57.60%	47.20%	58.80%	42.40%	53.00%	53.30%	53.30%	53.00%	42.64%
UCT RADIO	21.33%	21.48%	23.04%	20.58%	21.66%	24.58%	25.74%	20.10%	21.33%	20.68%	20.60%	22.20%
UNITRA	38.75%	41.00%	41.00%	30.75%	16.40%	38.75%	34.44%	28.00%	56.00%	14.00%	56.00%	56.20%
UNIVEN	60.25%	62.25%	42.80%	57.50%	45.20%	52.50%	51.40%	55.50%	61.25%	51.50%	58.00%	58.60%
VAAL COMM RADIO	DNS	DNS	DNS	18.75%	DNS	19.75%	20.08%	17.73%	18.75%	18.75%	23.75%	20.40%
VOICE OF CAPE	49.58%	49.90%	41.98%	52.48%	42.00%	52.90%	40.70%	50.63%	50.43%	50.90%	51.75%	51.74%
VUKANI	90.75%	91.50%	73.00%	95.67%	91.40%	86.75%	DNS	87.25%	79.50%	80.00%	86.75%	82.60%
WINTERVELDT	71.00%	71.00%	78.80%	77.25%	66.20%	81.75%	87.80%	87.75%	86.75%	87.25%	80.50%	84.00%
ZIBONELE	21.25%	76.10%	76.84%	66.75%	69.36%	60.00%	32.60%	67.00%	60.00%	45.00%	60.00%	61.60%
Average	41.35%	41.91%	41.06%	45.09%	41.96%	44.17%	40.37%	44.72%	47.53%	44.58%	45.78%	40.64%

DNS - Did not submit logsheets for monitoring

DNQ - Does not qualify (less than 15% of programming consists of music)

SA MUSIC - PUBLIC AND COMMERCIAL RADIO													
	MONTHLY AUGUST '99-JULY '00												
BROADCASTERS	AUG	SEPT	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUNE	JULY	Average
5 FM	21.10%	19.63%	19.42%	19.35%	19.46%	20.05%	19.60%	19.40%	21.00%	19.75%	19.28%	19.26%	**19.77%**
'02	DNQ	DNQ	DNQ	DNQ	DNQ	DNQ	DNQ	DNQ	DNQ	DNQ	DNQ	DNQ	DNQ
LGOA	21.85%	21.79%	23.36%	22.78%	23.26%	21.58%	25.00%	21.55%	21.75%	22.08%	22.35%	22.38%	**22.48%**
CAPE TALK	DNQ	DNQ	DNQ	DNQ	DNQ	DNQ	DNQ	DNQ	DNQ	DNQ	DNQ	DNQ	DNQ
RADIO ORANJE	22.25%	23.75%	23.60%	19.25%	23.64%	23.43%	26.40%	22.85%	21.95%	22.45%	22.85%	23.76%	**23.01%**
CLASSIC FM	23.13%	22.90%	21.92%	22.03%	22.00%	23.13%	22.60%	22.30%	22.00%	21.25%	22.50%	21.00%	**22.23%**
EAST COAST	23.75%	23.75%	22.80%	21.75%	20.12%	19.23%	22.40%	19.90%	22.00%	19.75%	20.43%	22.20%	**21.51%**
GOOD HOPE FM	10.45%	11.55%	11.26%	12.35%	12.94%	11.45%	11.30%	10.75%	8.00%	9.75%	10.95%	12.48%	**11.10%**
HIGHVELD STEREO	14.75%	15.00%	14.40%	14.00%	12.80%	12.00%	11.80%	12.25%	17.50%	19.25%	19.25%	18.80%	**15.15%**
KWEKWEZI	42.25%	34.25%	40.60%	46.75%	37.28%	35.65%	32.80%	40.13%	41.35%	42.00%	48.30%	34.00%	**39.61%**
ACARANDA	19.50%	21.00%	21.74%	20.25%	21.38%	19.68%	20.58%	21.75%	21.33%	21.50%	20.93%	21.00%	**20.89%**
KAYA FM	20.40%	20.23%	26.70%	28.75%	22.86%	30.43%	23.12%	30.38%	24.93%	28.00%	30.20%	29.86%	**26.32%**
K-FM	25.30%	27.48%	24.84%	25.90%	22.92%	24.58%	24.40%	24.15%	23.83%	26.00%	23.98%	28.20%	**25.13%**
LESEDI	DNS	DNS	DNS	DNS	DNS	DNS	DNS	DNS	DNS	DNS	DNS	DNS	**0.00%**
LIGWALAGWALA	42.25%	43.00%	33.98%	32.70%	26.40%	35.78%	36.20%	39.80%	39.50%	33.50%	29.25%	26.18%	**34.88%**
LOTUS	DNS	DNS	DNS	DNS	DNS	DNS	DNS	DNS	DNS	DNS	DNS	DNS	**0.00%**
METRO FM	DNS	DNS	28.40%	28.50%	27.40%	25.50%	25.20%	26.25%	27.75%	29.50%	25.50%	27.60%	**27.16%**
MOTSWEDING	51.75%	54.25%	45.60%	62.58%	55.00%	54.75%	52.00%	53.75%	54.75%	53.00%	55.25%	55.80%	**54.04%**
MUNGHANA LONENE	45.50%	35.88%	34.94%	65.38%	64.38%	63.25%	59.86%	60.73%	56.18%	68.85%	68.00%	56.26%	**56.60%**
P4-CT	DNS	DNS	DNS	DNS	DNS	DNS	DNS	DNS	DNS	DNS	DNS	DNS	**0.00%**
P4-DURBAN	DNS	DNS	DNS	DNS	26.40%	25.50%	29.60%	33.00%	30.25%	27.50%	DNS	DNS	**28.71%**
PHALAPHALA	63.75%	70.25%	63.82%	67.25%	49.60%	46.25%	48.80%	53.50%	61.33%	48.00%	59.25%	58.40%	**57.52%**
PUNT MED GOLF	DNQ	DNQ	DNQ	DNQ	DNQ	DNQ	DNQ	DNQ	DNQ	DNQ	DNQ	DNQ	DNQ
RSG	32.50%	33.50%	34.25%	33.00%	32.00%	29.75%	29.00%	29.25%	31.00%	33.25%	34.00%	33.75%	**32.10%**
SA FM	24.00%	23.75%	22.26%	20.20%	20.62%	21.00%	20.60%	20.20%	20.00%	20.25%	20.63%	20.38%	**21.16%**
THOBELA FM	62.58%	55.85%	53.98%	65.15%	53.82%	64.50%	60.60%	61.00%	64.25%	72.05%	72.00%	71.22%	**63.08%**
UKHOZI FM	66.75%	60.75%	63.80%	60.00%	59.52%	57.83%	60.92%	61.10%	66.75%	67.90%	57.00%	56.88%	**61.60%**
UMHLOBO WENENE	50.50%	49.00%	42.14%	46.50%	42.96%	33.50%	43.64%	57.00%	59.00%	64.75%	45.00%	55.80%	**49.15%**
Y-FM	DNS	DNS	DNS	26.00%	24.66%	22.18%	20.36%	19.33%	DNS	DNS	DNS	DNS	**22.50%**
Average	34.22%	33.38%	32.09%	34.56%	31.37%	31.35%	31.60%	33.06%	34.38%	35.01%	34.61%	34.06%	33.31%
COMMERCIAL RADIO AVERAGE													**22.79%**
DNQ - Does not qualify (less than 15% of programming consists of music)											**PUBLIC RADIO AVERAGE**		**38.72%**
		DNS - Did not submit logsheets for monitoring											

ANNEXURE C:

AUDIENCE RATINGS

Top Programmes on the channels

Channel	Programme	Genre	Audience Rating
SABC 1	Generations	Soap	16.73
	Unyana Womntu	Drama	13.73
SABC2	Ha a Mele Ditshiba	Drama	14.32
	Kelebone	Drama	12.58
	Lottery Game Show	Quiz	12.55
SABC3	Top Sport Cricket	Sport	9.77
	News	News	8.19
	Gladiators	Variety	7.6
M-Net	Who Wants to be a Millionaire	Quiz	5.48
	Carte Blanche	Magazine	4.55
	Egoli	Soap	4.49
E-TV	Jumanji	Movie	6.38
	WCW Thunder	Sport	4.82
	First Night	Movie	4.79

ANNEXURE D:

IBA LOCAL CONTENT MUSIC REGULATIONS

PROPOSED DRAFT REGULATIONS RELATING TO THE IMPOSITION OF SOUND BROADCASTING LICENCE CONDITIONS REGARDING SOUTH AFRICAN MUSIC

SCHEDULE

Definitions

1. 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), shall have that meaning and, unless the context indicates otherwise-

   "Sound broadcasting licence" means a broadcasting licence granted and issued for the purpose of providing a sound broadcasting service;

   "The performance period" means the period of 126 hours in one week measured between the hours 05h00 and 23h00 each days.

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, on the day following the end of the sixth month after 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 Every holder of sound broadcasting licence to which these regulations apply must ensure that at least 20% 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 The Authority may, upon written application and good cause shown by the holder of a sound broadcasting licence, grant exemption from any condition imposed by sub-regulation (1) or vary such condition, it is satisfied that the exemption or variation is consistent with the objects of the Independent Broadcasting Authority Act, 1993, and any regulations made thereunder.

4. Records

4.1 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.

4.2 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.

5. Short Title

These regulations may be cited as the Independent Broadcasting Authority of South African Music Regulations, 1997.