
GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS

INDEPENDENT COMMUNICATIONS AUTHORITY OF SOUTH AFRICA**NO. 344****23 MARCH 2016****Independent Communications Authority of South Africa**

Pinmill Farm, 164 Katherine Street, Sandton

Private Bag X10002, Sandton, 2146

ICASA REGULATIONS ON SOUTH AFRICAN MUSIC

I, Rubben Mohlaloga, Acting Chairperson of the Independent Communications Authority of South Africa ("the Authority") acting on behalf of the Council of the Authority hereby approve and publish the South African Music Regulations set out in the Schedule and made by the Authority in terms of section 4(3)(j) of the Independent Communications Authority of South Africa, 2000 (Act No. 13 of 2000) read with sections 4(1) and 61 of the Electronic Communications Act, 2005 (Act No. 36 of 2005).

A handwritten signature in blue ink, appearing to read 'R. Mohlaloga', written over a horizontal line.

RUBBEN MOHLALOGA
ACTING CHAIRPERSON

SCHEDULE

1. Definitions

In these Regulations any word to which a meaning has been assigned to it in the Independent Communications Authority of South Africa Act (Act No. 13 of 2000) and the underlying statutes, will have that meaning, unless the context indicates otherwise-

“Bouquet” means a collection of video and / or audio channels marketed as a single package, often transmitted in a single data stream, or a thematic environment where channels are devoted to a specific programming genre;

“Interview” means conversation between a radio presenter and musician(s) or composer(s) used as a basis of a broadcast, with a normal minimum duration of five minutes;

“New Musicians” means a musicians whose debut album has been on the market for six months or less;

“Performance Period” means the period of 126 hours in one week measured between the hours 05h00 and 23h00 each day;

2. Application of these Regulations

These regulations will apply to a holder of any category of a sound broadcasting service licence.

3. Imposition of Conditions on Sound Broadcasting Services regarding South African Music

Public Sound Broadcasting Service

- (1) A holder of a public sound broadcasting service licence must ensure that after eighteen (18) months from the date of gazetting of these Regulations, a minimum of 60%, increasing to 70% in the following year, of the musical works broadcast in the performance period, consist of South African music and that such South African music is spread evenly throughout the performance period.

Commercial Sound Broadcasting Service

- (2) A holder of a commercial sound broadcasting service licence must ensure that after eighteen (18) months from the date of gazetting of these Regulations, a minimum of 35% of the musical works broadcast in the performance period, consist of South African music and that such South African music is spread evenly throughout the performance period.

Community Sound Broadcasting Service

- (3) A holder of a community sound broadcasting service licence must ensure that after eighteen (18) months from the date of gazetting of these regulations, a minimum of 60%, increasing by 10% annually to reach 80% of the musical works broadcast in the performance period, consist of South African music and that such South African music is spread evenly throughout the performance period.

Subscription Sound Broadcasting Service

- (4) A holder of a subscription sound broadcasting service licence must ensure that after eighteen (18) months from the date of gazetting of these Regulations, a minimum of 20%, increasing to 30% in the following year, of its bouquets consist of channels made up of South African music content.

Public Broadcasting Commercial Service

- (5) The commercial services of the holder of a public sound broadcasting service licence is subject to the same regulatory requirements as stipulated in sub-regulation (2).

4. General Provisions

- (1) A sound broadcasting service licensee that cannot meet the local content requirements must apply to the Authority for an exemption, and must submit proof that there is limited music supply in its defined format and demonstrate the measures it has undertaken in attempting to meet the local content requirements.

- (2) An application in terms of sub-regulation (1) must include a proposal(s) on how the licensee intends working with the music industry to address the shortage of music supply in its defined format.
- (3) A proposal(s) in terms of sub-regulation (2), if approved along with the application in terms of sub-regulation (1), will form part of the licensee's licence terms and conditions.

5. Formulas (Format Factors)

- (1) The Music Points in terms of this sub-regulation contribute towards the calculation of the relevant minimum South African music content quota, which is calculated using the following formula: Format Factor (unit) x Duration.

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

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

- (2) The Music Points in terms of this sub-regulation contribute towards the calculation of the relevant minimum South African music content quota, which is calculated using the following formula: Format Factor (unit) x number of tracks:

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

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

6. Records

- (1) The holder of a sound broadcasting licence must keep and maintain logs, statistical forms and programme records containing:

- (a) particulars of –

- (i) the percentages of South African music broadcast including quota calculations using format factors in the performance period; and
- (ii) the time and duration of every such broadcast.

(b) such other particulars as may be required by the Authority from time to time.

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

7. Contraventions and penalties

(1) A licensee that contravenes any regulation of these Regulations, except regulation 3(3), is liable to a fine not exceeding R5 000 000 (five Million Rand) or 10% of the licensee's annual turnover for every day or part thereof during which the contravention continued.

(2) A licensee that contravenes regulation 3(3) of these Regulations is liable to a fine not exceeding R50 000 (fifty Thousand Rand) for every day or part thereof during which the contravention continued.

8. Repeal

These Regulations repeal the 2006 ICASA South African Music Content Regulations in Government Gazette No. 28454 of 31 January 2006.

9. Short Title

These regulations are called the ICASA South African Music Content Regulations, 2016 and shall commence eighteen (18) months after the date of publication in the government gazette.