

INDEPENDENT COMMUNICATIONS AUTHORITY OF SOUTH AFRICA**NOTICE 215 OF 2021****DIGITAL SOUND BROADCASTING SERVICES REGULATIONS, 2021**

The Independent Communications Authority of South Africa ("the Authority"), in terms of section 4 (1), read with section 30 (2) (d), and 34 (6) of the Electronic Communications Act, 2005 (Act No. 36 of 2005) hereby publishes the Digital Sound Broadcasting ("DSB") Services Regulations in the schedule.

A copy of the DSB Services Regulations will be made available on the Authority's website at www.icasa.org.za and in the Authority's Library situated at 350 Witch-Hazel Avenue, Eco Point Office Park, Centurion between 09h00 and 16h00, from Monday to Friday.

A handwritten signature in black ink, appearing to read 'Keabetswe Modimoeng'.

Dr. Keabetswe Modimoeng

Chairperson

Date: 06 /04 /2021

SCHEDULE

1. DEFINITIONS

In these Regulations, unless the context otherwise indicates, a word or expression to which a meaning has been assigned in the Act, has the meaning so assigned.

"Act" means the Electronic Communications Act, 2005 (Act No.36 of 2005), as amended.

"Analogue sound broadcasting" means terrestrial broadcasting where the sound broadcast signal is in analogue format and "analogue sound broadcast" shall be construed accordingly;

"Applicant" means a person applying to provide a broadcasting service in terms of the Processes and Procedures Regulations;

"CCC" means the Complaints and Compliance Committee;

"Digital Sound Broadcasting (DSB)" means an audio broadcasting technology intended to deliver superior quality sound using digital communications technology. It is a digital signal delivery system capable of delivering sound and data;

"Digital sound broadcasting services" means a broadcasting service delivered over a DSB platform.

"Multi channel distributor" has the same meaning as defined in the Act;

"MUX" means a multiplexer which is a device or unit that combines multiple analogue or digital signals into a single data stream over a shared medium or platform;

"Primary market" means geographical markets of Gauteng and the metropolitan areas of and around Cape Town and Durban;

"Process and Procedures Regulations" means the Processes and Procedures Regulations for Class Licences, 2010 published under Government Notice R526 in *Government Gazette* 33297 of 14 June 2010, as amended from time to time and the

Processes and Procedures Regulations for Individual Licences, 2010 published under Government Notice R522 in *Government Gazette* 33293 of 14 June 2010, as amended from time to time;

“Radio Frequency Spectrum Licence” has the same meaning as defined in the Act;

“Secondary Markets” means geographical markets that fall outside Primary Markets;

“Simulcast” means a simultaneous transmission of the same sound broadcasting service on two or more channels or media;

“Sound broadcasting service” has the same meaning as defined in the Act;

“Licensee” has the same meaning as defined in the Act;

“Terrestrial Broadcasting Frequency Plan 2013” means the Terrestrial Broadcasting Frequency Plan published on 02 April 2013 in Government Gazette 36321 Notice No. 298 of 2013 as amended.

2. OBJECTIVES

The objectives of these Regulations are to:

- (a) Set out the framework for the introduction of DSB services; and
- (b) Prescribe the procedure for an Applicant seeking to provide DSB services.

3. SCOPE

These Regulations shall apply to sound broadcasting licensees seeking to provide digital sound broadcasting services.

4. FRAMEWORK FOR DSB SERVICES

- (1) The introduction of DSB services for new applicants will be in a phased approach: phase one (1) will be in the primary markets and phase two (2) will be in the secondary markets.

- (2) On a date to be determined by the Authority and published in the Government Gazette, existing sound broadcasting service licensees may simulcast their existing sound broadcasting programme (s) on analogue and digital platforms.
- (3) The Authority will consider Applicants without existing sound broadcasting licences three (3) years after the date contemplated in sub regulation (2) above. This will be done through an invitation to apply issued by the Authority in terms of section 9 of the Act, and in line with Regulation 4 (5) of the Community Broadcasting Services Regulations, 2019.
- (4) A DSB technical advisory group (DTAG) shall be formed after the effective date of these regulations. DTAG shall be an advisory body established by the Authority, whose mandate shall be to advise the Authority on technical matters relating to the roll out of DSB services, and its roles and responsibilities shall be set out in its terms of reference that shall be developed by its members in consultation with the Authority. The DTAG shall be chaired by a Councillor appointed by Council and comprise of technical representatives from:
 - (a) Representatives from the Authority as may be determined;
 - (b) Representatives from Licenced Public sound Broadcasters;
 - (c) Representatives from Licenced Commercial sound Broadcasters;
 - (d) Representatives from Licenced Community sound Broadcasters;
 - (e) Representatives from Licensed electronic communications network services (ECNS) / signal distribution operators); and
 - (f) Any other stakeholders that may be invited by DTAG from time to time.
- (5) The Authority shall determine the number of representatives from each Broadcasting sector to serve on the DTAG.

5. MULTI-CHANNEL DISTRIBUTION OF DSB SERVICES

- (1) Multi-channel distribution services will be provided by an ECNS licensee as defined in the Act.

- (2) A Multi-channel distributor shall be required to have an ECNS licence and radio frequency (RF) Spectrum licence in-order to distribute and operate a MUX.
- (3) The Authority shall issue an invitation to apply (ITA) for a RF spectrum licence to Applicants who hold an ECNS licence and intend to be a Multi-channel distributor.
- (4) Existing sound Broadcasters, who self-provide their signal distribution services, will be required to apply for a RF spectrum licence in order for them to operate a MUX.
- (5) The ECNS licensee shall be required to roll-out infrastructure and commence operation within two (2) years from issuance of a RF spectrum licence by the Authority.

6. STANDARDS APPLICABLE TO DSB SERVICES

DSB services must compliment analogue services using the following digital standards:

- (a) DRM30 technologies to complement AM sound broadcasting services in the band 535.5 - 1606.5 kHz;
- (b) DRM+ to complement FM sound broadcasting services in the band 87.5 - 108 MHz; or
- (c) DAB+ to complement FM sound broadcasting services in the band 214 - 240 MHz.

7. DSB MUX ALLOCATION

- (1) The MUX allocation for DSB services is as indicated in the Terrestrial Broadcasting Frequency Plan 2013.
- (2) Public, commercial and community DSB services must be provided in terms of the Terrestrial Broadcasting Frequency Plan 2013 as updated by the Authority from time to time.

8. LICENSING OF DSB SERVICES

- (1) A sound broadcasting service licensee shall approach the Multi channel distributor with its existing sound broadcasting service licence for confirmation of the availability of capacity.
- (2) Once the sound broadcasting service licensee receives a written confirmation of capacity from a Multi channel distributor, the licensee shall provide the written confirmation to the Authority to support its application to provide a DSB service in terms of regulation 4(3) or to apply for channel authorisation as set out in regulation 9 of these Regulations.
- (3) The Authority shall, upon receipt of an application by an Applicant which is accompanied by a confirmation of the availability of capacity on a MUX, issue a sound broadcasting service licence to provide DSB services.
- (4) The Multi channel distributor must grant capacity to a sound broadcasting service licensee issued with a licence in terms of sub regulation (3).

9. CHANNEL AUTHORISATION

- (1) A sound broadcasting service licensee may as set out in Annexure A to these Regulations, apply to the Authority for a channel authorisation to add a new service to an existing DSB service.
- (2) A sound broadcasting service licensee may not add a channel to its service unless the Authority, on application by the licensee, has authorised the channel.
- (3) Within sixty (60) days of the receipt of the application for channel authorisation, the Authority shall issue a certificate authorising or refusing to authorise the channel.

- (4) If the Authority upon the expiry of the sixty (60) days period as contemplated in sub-regulation (3), has not issued a certificate, the channel shall be regarded as having been authorised.
- (5) If the Authority refuses to authorise a channel, the Authority will provide written reasons for the decision to the Applicant.

10. CONTRAVENTION AND PENALTIES

- (1) Failure to comply with regulations 7 and 8 (4) will result in the imposition of a fine not exceeding two hundred thousand Rands (R200 000.00) for each day of the contravention; and
- (2) Failure to comply with regulation 9 (2) will result in the imposition of a fine not exceeding five hundred thousand Rands (R500 000.00).

SHORT TITLE AND COMMENCEMENT

These Regulations are called the Digital Sound Broadcasting Services Regulations, 2021 and shall come into force upon publication in the *Government Gazette*.

Annexure A: Channel Authorisation Application

An Applicant requiring channel authorisation in terms of regulation 9 of these Regulations must submit a channel authorisation application setting out the following information:

- (a) State the name of the channel;
- (b) The nature of its channel and its content;
- (c) The primary language of the channel;
- (d) The duration of the channel if it is a special event channel or pop out channel;
- (e) Confirmation from the Multi channel distributor of capacity on the MUX; and
- (f) Information regarding the name, nature and content of the existing DSB service provided by the Applicant.



Independent Communications Authority of South Africa

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**REASONS DOCUMENT FOR THE DIGITAL SOUND BROADCASTING
SERVICES REGULATIONS**

REASONS DOCUMENT

MARCH 2021

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1. ACKNOWLEDGEMENTS

- 1.1 The Independent Communications Authority of South Africa ("the Authority"/ "ICASA") hereby acknowledges and thanks all stakeholders who have participated in the process aimed at developing a regulatory framework for the introduction of Digital Sound Broadcasting ("DSB") Services.
- 1.2 The following stakeholders have submitted written representations to the Authority on the draft DSB Regulations:
- a) Southern African Digital Broadcasting Association (SADIBA)
 - b) Consumer Advisory Panel (CAP)
 - c) African Media Entertainment (AME)
 - d) South African Broadcasting Corporation (SABC)
 - e) SENTECH
 - f) PRIMEDIA
 - g) The Westbury Community Development Centre (WECODEC)
 - h) Thembeka and Associates
 - i) National Association of Broadcasters (NAB)
 - j) National Community Radio Framework (NCRF)
 - k) Broadcom International
 - l) Blu Lemon Pty Ltd
 - m) DRM
 - n) TWR
 - o) Radio Pulpit

2. INTRODUCTION

- 2.1 On 29 March 2018, the Authority published its intention to conduct an Inquiry in terms of section 4B of the Independent Communications Authority of South Africa Act, 2000 (Act No. 13 of 2000) ("ICASA Act"). The purpose of the Inquiry was to solicit input in relation to:
- 2.1.1 examine the prospects of implementation of DSB services in South Africa; and
 - 2.1.2 examine the manner in which the implementation of DSB services can improve spectrum efficiency and management.

- 2.2 The Authority subsequently published the Findings Document and Position Paper on the use of Digital Sound Broadcasting in South Africa on 29 March 2019¹.
- 2.3 On 10 July 2020², the Minister of Communications and Digital Technologies (“the Minister”) published the policy direction on the introduction of DSB in South Africa.
- 2.4 On 13 November 2020, after consideration of the policy direction, the Authority published the Draft DSB Regulations and invited interested parties to make written representations by 29 December 2020, which date was subsequently extended to 08 January 2021. The Authority received fifteen (15) written submissions, thirteen (13) of which requested to make oral representations to the Authority. The Authority held public hearings from 20 to 21 January 2021.
- 2.5 The purpose of this Reasons Document is to summarise the submissions (written and oral) by stakeholders in relation to the Draft DSB Regulations and to provide reasons for decisions of the Authority.
- 2.6 The Reasons Document will focus on the Authority’s consideration of the Minister’s Policy Direction on the Introduction of DSB in South Africa as well as on the sections of the Draft DSB Regulations that interested parties made oral and written submissions on and the Authority’s decisions thereto.
- 2.7 The Authority considered and aligned the DSB Policy Direction on the Introduction of DSB in South Africa published by the Minister to the Draft DSB Regulations.
- 2.8 On 10 July 2020, the Minister of Communications and Digital Technologies (“Minister”) published the Digital Sound Broadcasting (“DSB”) Policy Direction on the Introduction of Digital Sound Broadcasting in South Africa in the Government Gazette No. 43514 (“the Policy Direction”) for the Authority’s consideration.

¹ Government Gazette No. 42337 of 29 March 2019

² Government Gazette No. 43514 of 10 July 2020

2.9 The matrix is attached as Annexure A that represents the Authority's view of the Policy Direction.

3. REGULATION 1: DEFINITIONS

3.1 **AME** recommends that "**Digital Sound Broadcasting**" be defined as "a digital standard for sound broadcasting which is an efficient way of providing sound broadcasting services other than on FM or AM frequency bands"; the term "**analogue broadcasting**" can be defined as "current commercial sound broadcasting licensees broadcasting on either the FM or AM frequency bands"; "**applicant**" must therefore be defined more simply as "a person who applies to ICASA for a licence to provide digital sound broadcasting"; "**digital sound broadcasting services**" should be defined in the same way as communications services are currently defined in the Electronic Communications Act, 2005 (Act No. 36 of 2005) ("ECA"), namely by referring to the type of licence authorizing that service. The definition of DSB would be "the provision of DSB services by a licensee"; a "**multiplex**" or MUX is not a network of frequencies – it is in fact the process for combining multiple analogue or digital signals into a single data stream over a shared medium or platform. The definition should be revised.

AME submitted that if ICASA accepts that all licensees should either be able to apply at the same time for DSB licences, then the definitions of "**primary**" and "**secondary**" markets are not required. Currently they increase the competitive gap between the primary and secondary market players.

Furthermore, **AME** submits that the definition of "**multi-channel distribution service**" in the ECA constitutes a better foundation for the definition of "multiplex".

The definition of "**simulcast**" should be improved. Currently, it refers to "transmission of the same radio programme" when the ECA and all other regulations refer to "sound broadcasting service". It also refers to "**channels or media**". In their view it would be more appropriate to define this term as "the broadcasting of programmes or events across more than one medium, or more than one service on the same medium, at exactly the same time." However, since it is only used in the context of one regulation (regulation 4(2)), the definition could simply refer to that regulation as it explains in any event what is meant in this context.

3.2 **SABC** advises the Authority to reconsider the definitions of the **Primary and Secondary Market**. The mandate of the Public Broadcaster in respect to the universal service and its coverage goes beyond the definitions.

3.3 **The Authority's Reason for Decision on Regulation (1) in the Draft DSB Regulations is as follows:**

3.3.1 In dealing with proposals on amendments to definitions by stakeholders, the Authority has amended some definitions, while certain definitions have not been amended and reasons have been provided accordingly. The following definitions have been amended:

"Applicant" the definition is aligned to the Processes and Procedures Regulations. Furthermore, the Authority has deleted the term digital platform from the definition in order for the applicant to conform to the definition outlined in the Processes and Procedures Regulations.

"MUX" the Authority is of the view that MUX is an abbreviation of a multiplexer. To this end, the Authority has amended the definition of MUX to refer to a MUX as a device and not as a network of frequencies as it initially had in the draft regulations.

"Simulcast" the Authority has amended the definition and has replaced radio programme with sound broadcasting service, in alignment to the ECA.

"Analogue sound broadcasting": the Authority has amended the term "Analogue broadcasting" to "Analogue sound broadcasting", the definition is aligned to the term Digital Sound Broadcasting.

3.3.2 The Authority decided to retain the following definitions: definition is aligned to the term DSB analogue broadcasting.

"Digital Sound Broadcasting" the term Digital Sound Broadcasting is not a standard but is a digital signal delivery system capable of delivering sound and data intended to deliver superior quality sound using digital communications technology.

“**digital sound broadcasting services**” the Authority notes that the ECA does not define communications services. Furthermore, the definition for digital sound broadcasting services has been construed from the definition of digital sound broadcasting.

“**multi-channel distribution service**” the Authority has addressed AME’s concern by amending the definition of MUX.

“**primary**” and “**secondary**” markets the Authority has decided to retain the definitions of primary and secondary markets because the Authority has decided to proceed with the licensing of primary and secondary markets, and retain the phased approach.

4. REGULATIONS 2: OBJECTIVES

4.1 **AME** argues that it is common for ICASA to set out the goals and objectives or the vision for a Draft Regulation. However, the Draft Regulations should never take place in a vacuum, and yet these regulations appear to be simply procedural in nature, rather than having any fundamental legal, technical or operational reason or indeed any indication that to introduce them would be to improve the landscape for sound broadcasters, existing or future. AME recommends that the objectives be improved.

4.2 The Authority’s Reason for Decision on the Objectives in the Draft DSB Regulations is as follows:

4.2.1 The Authority has decided to retain the provisions of regulation 2 as AME did not provide the wording in this respect.

5. REGULATIONS 4: FRAMEWORK FOR DSB SERVICES

Regulation 4(1):

5.1 **SADIBA** submits that differentiation between primary and secondary markets does not make sense as there is no timeline given for how long the phased approach will last and considered as complete. Furthermore, SADIBA submits that commercial broadcasters in different provinces considered secondary markets are of the view that DSB discriminates against them, they have valid licenses and don’t see evidence to wait for the completion of phase 1. SADIBA further submits that it is foreseen

that rollouts have to focus at key metropolitan areas. SADIBA feels that the differentiation between primary or secondary markets, regionalised (sub province) and local coverage is not provided for in TBFP2013.

- 5.2 **CAP** agrees with ICASA phased approach for primary and secondary markets as it believes that it will ensure that the introduction of DSB services is not disruptive to the market, giving ICASA, consumers, and new entrants time to adjust to the new market conditions. Furthermore, CAP is of the view that the phased approach will promote competition and ensure that the introduction of new market entrants which may include vulnerable consumers.
- 5.3 **AME** does not support the phased approach, however, it proposes that in order to promote competition, broadcasters in the secondary markets should be allowed to enter the Primary market as DSB broadcasters as it will create an opportunity for competition in terms of listenership. Moreover, AME proposes regulation 4 (1) to read as follows "the migration of licensees in primary markets will take place in Phase 1 while the migration of licensees in secondary markets will take place in Phase 2".
- 5.4 **WECODEC** submits that on the DSB phase implementation proposed by the Authority, its purpose is not spell out. According to WECODEC, if the primary market approach is on stage one, it will take side of the already advantaged and the disadvantaged and under-served communities in the rural areas remain discriminated upon. Furthermore, WECODEC submits that the phased approach for DAB+ would not have an impact on the DRM rollout for Community Radio and other broadcasters using the DRM technology, and the DRM will be delivered as per individual need and requirements.
- 5.5 **Thembeke and Associates** submits that due to the effects of the COVID-19 Pandemic that has impacted communities more so in rural, marginalised and peri-urban communities, the phased approach must be reviewed. Moreover, it submits that DSB introduced in 2017 to the ICT Chamber by Thembeke and Associates is available to all disabilities on audio, for the blind and multiple other disabilities as well as data in the form of text and images for deaf persons; South Africa National for the Blind

supported by the ICT Chamber's call for DSB in its member organization of 100(Tape Aids for the Blind being a member of the Organisation); it is essential to provide Early Childhood lessons 3-6 years (in all the mother tongue languages), "the gogo stories" especially those that unable to attend formal primary school education.

5.6 **SENTECH** submits that the "introduction of DSB services...in a phased approach" must be reconsidered due to the impact of COVID-19. Moreover, it submits that Authority's proposal on phased approach is not compliant with the object of ECA and creates an environment of unfair competitive behaviour, unfair competition challenges, inconsistent programme offering and unequal platform. According to SENTECH, those terrestrial audio broadcasters operating in both primary and secondary markets will unfairly compete against services only operating in secondary markets, and it proposes a nationwide rollout.

5.7 **The Authority's Reason for Decision on Regulation 4(1) in the Draft DSB Regulations is as follows:**

5.7.1 The Authority acknowledges the views by AME, WECODEC, Thembeke associates and others, that there is no need for a phased approach. However, the Authority is of the view that the phased approach is necessary to allow time for infrastructure roll-out; the period for take up of DSB services; and adopting the pilot approach (small scale deployment for learning and iteration before large scale roll-out).

Regulation 4(2):

5.8 **SADIBA** believes that the broadcaster should decide when it is right for Analogue Sound Switch-Off (ASO) while a proposed date for analogue switch off may be determined. Moreover, it supports a simulcast of existing services and recommends that new digital only services be launched.

5.9 **Primedia** is worried with regards to the Draft DSB Regulations stating that there will be an Analogue Sound Switch-Off (ASO) date as determined by the Minister. However, it submits that the DSB Position

Paper specified "it will not be necessary for a total analogue switch-off for various reasons such as the availability of digital receivers and the costs thereof analogue can co-exist with digital services until there is enough up-take of receivers." According to Primedia, it is likely that analogue terrestrial sound broadcasting spectrum may not and should not be switched-off for decades, if ever.

- 5.10 **CAP** welcomes the proposed approach by the Authority to allow existing sound broadcasting service licensees to simulcast their existing sound broadcasting programmes on analogue and digital platforms. Furthermore, CAP believes this will limit the impact of the switchover on vulnerable consumers who, due to a lack of resources, will find the switchover difficult to manage in terms of end-user equipment acquisition.
- 5.11 **AME** submitted that ASO should not be rushed.
- 5.12 **NAB** submits that the Draft DSB Regulations are not in sync with the Policy Direction that says DSB services are to be offered alongside analogue sound broadcasting services, and also Findings Document and Position Paper (The Authority also adopted the same position as articulated in paragraph 6.6.3.4) on the matter regarding ASO.
- 5.13 **NCRF** supports simulcasting for a smooth transition. Furthermore, it submits that the time will allow for the manufacturing of handset which will lower the price.
- 5.14 **NCRF** is of the view that the ASO is long overdue, it further advises that the Minister ensure all legally operating stations have crossed over before switching off. Secondly, considering that most households access radio through analogue devices, it will be imperative to ensure that listeners are not compromised in the process of the South African government complying with the ITU statutes as a signatory state.
- 5.15 **SENTECH** is of the view that ASO of terrestrial audio services should be the prerogative of the broadcasting industry, especially since there is no expectation of support from the fiscus. According to SENTECH, it means that ASO must solely be based on

commercial consideration in compliance with objects of the ECA (S2 of ECA), and the framework for ASO can be discussed and agreed to through the DSB technical advisory group (DTAG). Moreover, it submits that government should leave the conditions for ASO to the industry which will be determined by economic conditions.

5.16 **The Authority's Reason for Decision on Regulation 4(2) in the Draft DSB Regulations is as follows:**

5.16.1 The Authority has removed references to ASO as there is no provision for ASO in the DSB Policy Directive.

5.16.2 Furthermore, DSB Services will be introduced as a complementary service, therefore, no Broadcaster is obliged to simulcast. Broadcasters are however given an opportunity to simulcast and provide DSB services if they wish. This is to address the issues raised by most stakeholders in relation to added cost on the cost implications of simulcasting of their broadcasting services.

Regulation 4(3):

5.17 **Broadcom International** is of the view that the Authority should consider extending the period of two (2) years to three (3) years, or five (5) years, by doing so it will encourage and allow early movers to have a better opportunity to recover migration costs and reap some benefits. Furthermore, it submits that there is a large and diverse existing broadcasters' combination in the current primary and secondary markets that may take-up DSB.

5.18 **BluLemon Pty Ltd** submits that the waiting period should be six (6) months due to numerous new stations waiting for a long time to get an opportunity to broadcast, the waiting period of two years is long and will make them desponded. According to BluLemon Pty Ltd, a paragraph must be added that deals with applicants for lower power commercial licences that may without limitations or waiting period chose DSB technologies when applying for their 1W FM frequencies.

- 5.19 **SADIBA** notes that the Authority will consider applicants without existing licences two years after the date of Regulations. Moreover, it submits that an initial frame of 20 years is proposed and reviewed closer to the time to see if targets are met. DSB should not be hard migration like DTT.
- 5.20 **DRM** submits that the 2-year waiting period for applicants without existing sound broadcasting licences is too long considering the moratorium on community radio licensing that was originally imposed due to the lack of radio frequency spectrum. Furthermore, it submits that immediate access to additional DRM spectrum will help the underprivileged to gain access to news and entertainment, and this problem can be considered being solved and maintaining, therefore, an additional artificial delay is not productive at all.
- 5.21 **WECODEC** is puzzled with the Authority's two (2) years waiting period. Furthermore, it opposes the delay citing trials that demonstrate space for at least forty-eight (48) additional sound broadcasting services in Johannesburg, and also it is against an ITA process as, in its opinion, the process has never been a meaningful option for the dynamic space of community broadcasting.
- 5.22 **TWR** submits that given the levels of investment required to start digital broadcasting services such as DRM and the further investment needed to encourage the sustainability of such services, for instance, to provide for receiving sets - TWR proposes that applicants with a credible track record and business plans for such services should not be required to wait for two years after the effective date of the regulations but should be included in the first Invitations to Apply issued by the Authority.
- 5.23 **SABC** submits that the two (2) year reprieve while the existing broadcast licensees get organized is supported by the Corporation, however, this term seems to have been "thumb sucked". The SABC proposes that the "Market Research" be conducted by the Authority which should include sustainability of

the market, the financial viability of the new entrants is determined.

5.24 **The Authority's Reason for Decision on Regulation 4(3) in the Draft DSB Regulations is as follows:**

5.24.1 The Authority has amended the period on which it shall receive new applications from two (2) years of the effective date of the Regulations to three (3) years after the existing sound broadcasting licensees have been permitted to simulcast. The change is intended to allow existing broadcasters to recoup their start-up costs, similarly to also allow ECNS licensees who would be expected to roll out their network infrastructure prior to licensing of new players, to recoup their start-up costs. The change is also intended to prevent an overlap between the existing sound broadcasting licensees who are permitted to simulcast and the new entrants who will enter the market.

Regulation 4(4):

5.25 **SADIBA** seeks clarity on what is expected from DTAG and the extent to which this can be productive and contribute positively to the establishment and growth of a vibrant DSB environment.

5.26 According to **SADIBA** it is imperative in the DSB framework to indicate exactly what the Authority will achieve with the advisory group that could not be achieved through existing measures, and not create a parallel and conflicting structure to the public process required.

5.27 **DRM** supports the intentions of the Authority in establishing the DBS technical advisory group, DTAG. Furthermore, DRM is offering to contribute and support Authority's activity in this body both as an international not-for-profit Consortium dedicated to the take-up of this standard across the world and through our local representatives.

5.28 **WECODEC** supports and expresses interest to participate in DTAG.

- 5.29 **Thembeke and Associates** recommends that the DTAG group extend further to stakeholders other than broadcasters to stakeholders to include, (1) Persons with Disabilities, (2) Receiver Manufacturers – they would like receivers that will be inclusive of both standards and (3) Initiatives of potential community radio stations even if not licensed yet.
- 5.30 **NCRF** welcomes the formation of the multi-stakeholder group for technical advisory and wishes to express its deep interest to form part of DTAG.
- 5.31 **SENTECH** notes the formation of an advisory body and advises that the lessons learned from the Digital Migration process in relation to the technical advisory committee be considered by including terms of reference with timeframes. Moreover, it submits that the experiences with Joint Spectrum Advisory Group (JSAG) constituted in terms of sub-regulation 14 of the Digital Migration Regulations, makes the interaction and timeframes obligatory for the effectiveness of DTAG. The group must have timelines in order to ensure that its effective in its mandate.
- 5.32 **BluLemon** desires to be part of the representatives from licensed ECS/Signal distributors operators.
- 5.33 **The Authority's Reason for Decision on Regulation 4(4) in the Draft DSB Regulations is as follows:**
- 5.33.1 The Authority notes the submissions for the support of DTAG formulation. The Authority has made it clearer in the Regulations that DTAG is an advisory body.

6. MULTI-CHANNEL DISTRIBUTION OF DSB SERVICES

Regulation 5:

- 6.1 **AME** submits that the wording of regulation 5 suggests when read with section 63 of the ECA, that any person may self-provide a MUX. Moreover, it submits that if this is the case, then it would

be useful to understand how regulation 5(5) can operate at the same time as regulation 4(3) as then both the MUX operator and all digital sound broadcasters have to be ready to broadcast on the same MUX, in two years. However, AME indicates, this is a very short time period for both activities, and particularly for both to take place together.

- 6.2 **SENTECH** commends the Authority for the progressive considerations as outlined in sub-regulations 5(1), (2) and (3) of the Draft DSB. However, it submits that in relation to sub-regulation 5(4), the Authority is required to provide clarity on how this provision will be implemented taking into consideration the differences between existing conditions targeted to accommodate DRM, DRM+ and DAB+ services.

Unlike DRM and DRM+, DAB+ will be implemented in a band that has historically been limited to the provisioning of terrestrial television services.

- 6.3 **The Authority's Reason for Decision on Regulation 5 in the Draft DSB Regulations is as follows:**

6.3.1 The Authority has decided to retain the provisions of Regulation 5.

Regulation 5(2):

- 6.4 **Broadcom International** understands that Multi-Channel Distributor for DSB Services refers and applies to DAB+ migration. However, it submits that the Single-Channel Distribution for DSB services may be appropriate to DRM30 and DRM+ migration candidates, Broadcom International seeks more details on this matter. Broadcom International feels that the broadcasters should use their choice to conduct any hard migration or migrate on a timeshare basis (certain hours) using their licensed spectrum allocations or they should have the option to apply and be allocated additional spectrum in the same spectrum category to implement DSB migration.

- 6.5 **Broadcom International** submits that ICASA must discover processes to support these broadcasters equally without additional burden. Broadcom International also submits that ICASA must take into consideration that those broadcasters, specifically to the independent operators, will have to carry the cost for this migration on their own and without taxpayer's financial support to offer DSB migration. Technology neutral position, equal access, and market forces are to dictate migration strategy, with optional of access to spectrum in the same category for migration.
- 6.6 **SADIBA** is concerned with the lack of clarity on measures to avoid potential dominance and undue influence of a multi-channel distributor over what broadcast services get capacity and how much. SADIBA asks a question on how will the capacity in a multiplex be managed to determine bandwidth and quality as desired?
- 6.7 **AME** urges that as a monopoly provider with dominance, if Sentech applies to operate a MUX in terms of regulation 5 of the draft Regulation, then Sentech's prices must be regulated by ICASA. AME recommends that the Regulations include a cost model or provide for ICASA to create a cost model in order to regulate Sentech's prices.
- 6.8 **The Authority's Reason for Decision on Regulation 5(2) in the Draft DSB Regulations is as follows:**
- 6.8.1 The Regulation also applies to DRM30 and DRM+. The Authority is of the view that the simulcast process is not compulsory, it will be the prerogative of the broadcaster to decide when to simulcast. The technical aspects (capacity in a multiplex and bandwidth determination) of DSB will be determined by DTAG.

Regulation 5(3):

- 6.9 **DRM** suggests that ECNS licence holders who desire to operate a Mux should be allowed to apply for a RF spectrum licence outside of an ITA process.

6.10 **AME** submits that it is not clear whether an incumbent in a secondary or other market can apply for space on a MUX in a different geographical location, and although the draft Regulations give primary markets first bite, as it indicated above, this will likely destroy competition for secondary market licensees.

6.11 **SENTECH** submits that there is no broadcaster's assignment spectrum in the DAB+ band for terrestrial audio services, whilst AM and FM spectrum are currently assigned to terrestrial audio broadcasters. SENTECH questions how does the Authority contemplate issuing ITAs for spectrum currently assigned to analogue terrestrial broadcasting services? Moreover, SENTECH submits that the consideration of DAB+ is based on the SFN frequency plan and the digital system is expected to accommodate 10 to 20 programmes. SENTECH further submits that the Authority must be cognizant that DAB is a family of standards that includes DAB, DAB+ and T-DMB and collectively referred as DAB. SENTECH questions if the Draft DSB only refers to DAB+, whether the Authority excluding the implementation of T-DMB? SENTECH also seeks clarity about catering for the differences between existing conditions targeted to accommodate DRM, DRM+ and DAB+ services.

6.12 **WECODEC** views Regulation 5 (3) as considering only the DAB+, in DAB spectrum fifteen plus (15+) services will be accommodated on a single platform and reasonable responsibility will last with the respective licensee, an ITA process is best suited. However, for the DRM licensees the process is not justifiable to limit the events when DRM spectrum is provided – in the AM or FM Band – to a specific time slot.

6.13 **The Authority's Reason for Decision on Regulation 5(3) in the Draft DSB Regulations is as follows:**

6.13.1 The radio spectrum will be licensed through an ITA as prescribed by regulation 7 of the Radio Frequency Spectrum Regulations 2015 read with section 31(3)(a) of the ECA. T-DMB is not one of the standards prescribed in the DSB Policy Direction. The technical aspects (capacity

in a multiplex and bandwidth determination) of DSB will be determined by DTAG.

Regulation 5(4):

6.14 **DRM** suggests that new applicants should be allowed to self-distribute its broadcasting services.

6.15 **WECODEC** proposes that regulation 5(4) be extended to new community radio station applicants.

6.16 **The Authority's Reason for Decision on Regulation 5(4) in the Draft DSB Regulations is as follows:**

6.16.1 The Authority has decided to licence existing sound broadcasting licensees first to enable them to recoup the return of their investment. Existing Broadcasters, who self-provide their signal distribution services, will be required to apply for a RF spectrum licence in order for them to operate a MUX.

Regulation 5(5):

6.17 **AME** urges that as a monopoly provider with dominance, if Sentech applies to operate a MUX in terms of regulation 5 of the draft Regulation, then Sentech's prices must be regulated by ICASA. AME recommends that the Regulations include a cost model or provide for ICASA to create a cost model in order to regulate Sentech's prices.

6.18 **Authority's Decision on Regulation 5(5) in the Draft DSB Regulations is as follows:**

6.18.1 The Authority notes inputs from stakeholders on the views regarding the monopoly of Sentech in the signal distribution market. The Authority is of the view that in order for an entity to be regarded as a monopoly/significant market player, the Authority will first need to conduct a section 67(4) inquiry in terms of the ECA. The DTAG committee is meant to be able to advise Council on the technical parameters which included MUX

capacity, technical framework amongst others for the implementation of the different technologies.

6.18.2 In relation to AME's concerns regarding the timing issue of the MUX operator and the operation of DSB broadcasters in regulation 4(3) read with regulation 5(5), the Authority has implemented the necessary adjustment as outlined in paragraph 5.24 above.

7. STANDARDS APPLICABLE TO DSB SERVICES

Regulation 6:

7.1 **SADIBA** submits that it is unclear if the Authority intends to license the frequencies 535.5-1606.5 kHz and that the current frequency plan would not really allow the optimal implementation. **SADIBA** further submits that the deployment of DRM 30 in 9 kHz blocks will allow a significant reduction in complexity and cost. Furthermore, **SADIBA** submits that the ERP's in Annexure C of TBFP 2013 is for analogue and would need to be reviewed for Digital. **SADIBA** questions how the Authority intends to license DRM+ in the highly congested band (87.5-108 MHz) and the protection criteria in this band between digital and analogue. **SADIBA** argues that the trials were conducted with low power and it has not been assessed if the use of high power would result in interference. **SADIBA** proposes that ITU-R BS.1114-9 be referenced for frequency spacing and power limitations for DRM+ and FM. **SADIBA** submits that the Authority should publish Annexures to TBFP clearly specifying powers and frequencies. **SADIBA** submits that the frequency range 214-230 MHz does not reflect the available range in which DAB+ may be deployed and that the availability of channel 13F has been petitioned to license DSB ahead of Band III analogue television switch off. **SADIBA** submits that additional requirements for Band III capacity for DSB have been communicated with the Authority since 2002. **SADIBA** is of the view that significantly more spectrum will be required for rollout of T-DAB (DAB+) than the planned and submit that the Authority should consider short term licensing of T-DAB (DAB+) on 239.2 MHz ahead of analogue television switch-off. **SADIBA** submits that only one Band III frequency 239.2 MHz is

available, it is unclear how the Authority intends to accommodate broadcasters across three tiers of Broadcasting. Three to Four T-DAB (DAB+) multiplexers will be required to service current broadcasters in metropolitan areas, this will not be available till analogue television switch-off.

7.2 **AME** argues that the standards applicable for DSB services (i.e. DRM 30, DRM+ and DAB+) be included in regulation 6 of the draft Regulations to “complement” AM and FM services and not to substitute these services. **AME** submits that the draft Regulations must be aligned with the Policy Direction and with ICASA’s own approach. **AME** argues that the Draft DSB Regulations are not clear in relation to the following:

- DRM30 uses the AM frequency band range, while DRM+ uses the FM range. DRM+ will obviously therefore, affect existing FM broadcasters;
- DRM+ has been shown to have notable interference issues with adjacent channels (see EBU Tech 3357);
- a single frequency is used for all transmitters and it is not necessary to use different carrier frequency on an adjacent transmitter as is the case with FM. It also appears that a number of FM frequencies may be sacrificed to accommodate DRM+ while FM stations are still operational. This needs to be clarified, and the timeframe for transition to digital (if any licensee wishes to do so) must be clear;

AME notes that the Draft DSB Regulation defines DAB+ services as being situated in the 214-240MHz band and that it differs from the available frequency range of 174-230MHz previously defined and gazetted and offers significantly less bandwidth. They further note that the trials that conducted have been repeatedly authorized to use 239.2MHz (Ch: 13F) which is outside the defined band. **AME** submits that there has been insufficient consultation on the standards and the respective frequency bands.

7.3 **SABC** supports the standards proposed in the draft regulations.

7.4 **Thembeke and Associates** recommends the FM Band to keep the regulations future-proof i.e. VHF Band I (or the extension of the FM Band downwards e.g. to 64 MHz as anticipated in other regions of the world

such as China, Russia or Brazil) could become very relevant in the SKA area to maintain broadcasting and supply DSB below 70MHz.

- 7.5 **TWR** questions whether the DRM30 HF band (Shortwave) falls within the scope of the regulations; and if so, what will be the procedure for coordinating this with HFCC.
- 7.6 **Primedia** notes that while the DSB Policy Direction refers to DRM, DRM+ and DAB+ as DSB standards, it also directed ICASA to formally adopt these and, importantly, it directed ICASA to “encourage market availability and use of multi-standard receivers to allow for the continued use of analogue FM alongside the variance of the digital technologies, DAB and DRM”. Primedia submits that unfortunately, there is very little evidence of this. Primedia further submits that DSB receivers for home use are extremely expensive relative to analogue receivers and are not readily available or manufactured, currently, in South Africa. Primedia submits that being able to access DSB services in the car would be essential to the rollout of DSB in South Africa however, only luxury cars like BMW have DSB-enabled receivers fitted which only enables the playing of DAB but not DRM. Primedia submits that DSB (whether DAB or DRM) is a technology that appears to have been leapfrogged by streaming and other online services, such as podcasts, and is no longer the digital audio technology of the future.
- 7.7 **NAB** notes that the standards applicable for DSB services (i.e. DRM 30, DRM+ and DAB+) are spelt out in regulation 6 of the Draft Regulations to ‘complement’ AM and FM services and not as substitutes of these services. The NAB therefore, recommends that the Draft Regulations be wholly aligned with the Policy Direction in this regard.
- 7.8 **NCRF** supports the introduction of DRM and DAB/DAB+ standards in South Africa. NCRF submits that DRM can operate on FM which makes it more ideal and can be easily deployed. NCRF questions whether the Authority would want to utilize DAB+ at a smaller scale for small broadcasters.
- 7.9 **SENTECH** supports the digital standards preferred by the South African broadcasting industry. SENTECH proposes the following wording: *“Digital standards considered for terrestrial DSB services in South Africa must be able to co-exist with the following technologies”*

- 7.10 **Radio Pulpit** welcomes the fact that ICASA has recognised the ability of existing sound broadcasters to broadcast on DRM or DAB+ too, as is clearly intended in the wording of the draft regulations. Radio Pulpit is of the view that DSB, and particularly DRM plus (given the expanded geographic coverage potential of DRM relative to DAB+) signalled a possible end to spectrum scarcity for the community broadcasting sector and an end to the sound quality concerns that have plagued MW transmission.
- 7.11 **DRM** submits that DRM has the following benefits: More choice; Excellent audio quality; Multimedia Applications; Good coverage area and robust signal, Automatic tuning and Emergency warning & alert. DRM further submits that DRM in FM can work very well in both pure digital as well as simulcast without interferences. Furthermore, DRM is of the view that DRM encourages spectrum efficiency, Universal and free access to information, education and emergency warning & entertainment.
- 7.12 **DRM** further submits that a single technical standard is a solution for local, regional, national and international radio services (SW, MW, VHF) using spectrum more efficiently at much reduced energy costs. DRM further submits that smooth transition from analogue to digital radio, taking listeners along, and using existing infrastructure is a great opportunity for local manufacturing and know-how individual broadcaster to remain in full control of enhanced infrastructure and content without the need for third-party operators and/or of a large multiplex to be shared with competitors. DRM submits that Broadcasters can upgrade their existing analogue transmitters to DRM, therefore, would lead to savings for Capital expenditures (CAPEX) and Operating expenses (OPEX) costs.
- 7.13 **Authority's Reason for Decision on Regulation (6) in the Draft DSB Regulations is as follows:**
- 7.13.1 The standards are as per the published DSB Policy Direction by the Minister. In line with the stakeholders' views that the proposed digital services are complementary to existing analogue services, the Authority has amended accordingly regulation 7 to reflect such a view.

7.13.2 The DSB Regulations have been aligned to the DSB Policy Direction. The Authority notes comments from stakeholders regarding congestion and potential interference in the FM band, the Authority will ensure orderly and efficient spectrum management in dealing with the matters raised.

8. DSB MUX ALLOCATION

Regulation 7:

8.1 **SADIBA** submits that the multi-channel operator or mux operator as gatekeeper to determine who gets access is undesirable especially with the conditions of undersupply of spectrum and capacity. However, it submits that the DSB framework planning does not confirm sufficient spectrum availability to ensure competition of multi-channel platforms for current and future demand. According to **SADIBA**, DRM30 and DRM+ typically serve a single broadcaster with one stereo service and do not require a multi-channel operator and can self-provide. Furthermore, it submits that broadcasters on DAB+ are likely to share a multiplex and require a multi-platform mux operator to actively drive and market the services delivered. According to **SADIBA**, its members would like to see more than one operator licensed with a clear differentiation between the network provider and multi-channel operator with the latter purely focusing on distribution functions. **SADIBA** submits that considering the limited spectrum available and risk of the dominance of multi-channel operators the DSB framework would greatly enhance by including measures to ensure a vibrant DSB sector with a roadmap synched to the release of spectrum for how and when capacity would be released for current and new applicants to ensure all three tiers of broadcasting. According to **SADIBA**, DSB to provide clarity on process and criteria that is to apply in prioritisation of capacity allocation and of current and new services, Moreover, it submits that oversight is required in terms of capacity allocation and preservation of quality proposition. **SADIBA** submits that care is required that capacity constraints do not result in a situation where quality is compromised for commercial gains or a drive to accommodate an unrealistic number of services.

- 8.2 **AME** submits that this draft regulation deals only with commercial sound broadcasters as far as it can tell, since the Processes and Procedures Regulations, 2010 (as amended) do not apply to the public broadcaster. As a result, AME does not understand why regulation 7 refers to public broadcasters. Furthermore, **AME** submits that in addition, since community broadcasting licences are not granted in 'primary' or 'secondary' markets but instead on the basis of a geographically founded community, or a community of common interest, they do not understand these draft Regulations to apply to community broadcasters either. Accordingly, they do not know why regulation 7 refers to community broadcasters.
- 8.3 **WECODEC** submits that regulations 7(1) only applies to DAB+. For DRM there are no "MUX Allocations" in the frequency plan as DRM operates within the same frequencies used for analogue AM and FM. WECODEC further expresses that the text should read: "The MUX allocation for DAB+ services is as indicated for Digital Audio Broadcasting, and the DRM Mux allocations are within the current AM and FM spectrum in the Terrestrial Broadcasting Frequency Plan 2013."
- 8.4 **SABC** submits that if an analogue radio station transmits the same program as on DSB (simulcast), there will be no appetite to migrate or adopt DSB receiver sets. SABC therefore proposes that a radio station must have about 2 or 3 digital channels with different programs in order to make a sound business case to adopt DSB services. This means that the SABC will require a minimum of 2 (two) MUXes. It is also to be noted that the SABC is a holder of an ECNS licence. The frequency plan of 2013 should therefore be reviewed and based on a mixture of SFN (single frequency network) and MFN (multiple frequency network), the plan needs to be reworked and more frequency should be reserved for Mux operations.
- 8.5 **SENTECH** refers the Authority to the Notice of the radio frequency spectrum exempted for use within the Karoo Central Astronomy Advantage Areas (KCAAA), Government Gazette 42531 as published on 14 June 2019, gazetted in terms of the Astronomy Geographic Advantage Act (21/2007) ("AGA Act"). SENTECH submits that the Authority must take into consideration the limited use of MUX allocation for the Northern Cape, as the Terrestrial Broadcasting Frequency Plan

refers to two (2) provincial DAB+ SFNs. It is important to note that the Terrestrial Broadcasting Frequency Plan only refers to a DAB+ frequency plan, no consideration for the digitisation of the AM and FM bands was considered. It is on this basis that SENTECH requests the Authority to initiate a re-planning workshop, similar to that undertaken for the DTT frequency plan. The main purpose of the workshop is to review Annex D of the Terrestrial Frequency Plan within the perimeters of the co-ordinated plan and to consider lessons learned from the DTT planning and implementation project. Annex D as gazetted will not effectively accommodate public, commercial and community DSB services. The SFN principle will be expensive for current analogue single transmitter terrestrial radio broadcasters. SENTECH submits that in terms of Terrestrial Radio Frequency Plans, the Terrestrial Frequency Plan does not include assignment plans for DRM, DRM+ and DAB+. It is also important to note that the DAB+ plan is an allotments plan, therefore:

- Nothing is known of the actual location of the transmitter sites, or of the specific transmission characteristics that must be used;
- The following parameters must be determined: definition of the area to be covered, the channel and the interference potential of the allotment;
- Assignment planning requires defining reference transmission conditions to calculate potential interference and facilitate compatibility calculations; and
- The allotment plan provides frequencies to be used in particular areas without specifying the stations to which the frequencies are assigned.

Therefore, in order to ensure a technically implementable frequency plan, SENTECH proposes that the following issues must be addressed, amongst others:

- Reception modes;
- Minimum field-strength predictions/level (DRM, DRM+ and DAB+);
- Antenna gain based on mode of reception and type of device (DRM, DRM+ and DAB+);
- Receiver parameters (DRM, DRM+ and DAB+);
- Frequency plan: SFN/MFN/Hybrid? (DAB+);

- SFNs have proven to be more expensive for Class licensees, since they are required to have more transmitters than they currently have;
 - Protection parameters (DRM, DRM+ and DAB+); and
 - Including distance between stations.
- 8.6 **BluLemon** submits that it can play a role as a MUX operator to provide services to small players after cost analysis. In terms of technology, it can provide MUX services.
- 8.7 **DRM** submits that the spectrum planned to be amended to allow equal access to all players in rural as well as urban area. The new and old players should be given equal chance to progress rollout in rural and urban areas simultaneously.
- 8.8 **The Authority's Reason for Decision on Regulation (7) in the Draft DSB Regulations is as follows:**
- 8.8.1 The Authority has decided to retain the provisions of Draft Regulations 7. The Authority notes that AME is misdirected in relation to the applicability of these regulations. The Authority took a view in its Findings and Position document to retain the three tier broadcasting system hence the inclusion of public, community broadcasters in the MUX allocation.
- 8.8.2 Furthermore, a re-planning process may be undertaken to ensure that TBFP 2013 as amended is aligned and caters for DSB standards in the Policy Directive.

9. LICENSING OF DSB SERVICES

Regulation 8:

- 9.1 **Broadcom International** sought clarity on the requirement and process that relating to single-channel DSB for DRM30 and DRM+ migration candidates.
- 9.2 **SADIBA** submits that the Authority's multiplex allocations it not clear, as to what frequency resources are available nor the amount of broadcast services on the three tiers of broadcasting that can be

accommodated in the TBFP 2013. Furthermore, SADIBA proposes that DSB framework should provide clarity on how the Authority would prioritise and differentiate if the number of applicants exceeds the available spectrum and capacity.

9.3 **AME** is of the view that this regulation proposes that not all analogue sound broadcasters will be able to find MUX capacity, therefore, may be left without digital sound broadcasting licenses. Furthermore, AME does not support that ICASA should determine if there is availability on a MUX. AME is of the view that regulation 8(1), regulation 8(3) and regulation 8(4) contradict each other, therefore, proposes amendment.

9.4 **Thembeke and Associates** is of the view that the Community broadcasters, including new entrants, should be able to self-provide DSB services if possible. Moreover, Thembeke and Associates proposes that Community broadcasters, should not be bound to MUX operators if such are not available or suitable for the application.

9.5 **DRM** submits that new broadcasting applicants should be able to apply for a spectrum licence to self-provide their services.

9.6 **The Authority's Reason for Decision on Regulation 8 in the Draft DSB Regulations is as follows:**

9.6.1 The Authority has re-drafted regulation 8 in order to address the possible contradiction of the sub-regulations.

9.6.2 Section 63 of the ECA provides the regulatory framework relating to self-provision by the broadcasting service licensee.

10. CHANNEL AUTHORISATION

Regulation 9:

10.1 **AME** submits that it is unclear how channel authorisation would be transposed to sound broadcasting. AME further submits that it is also unclear why the authorization of a single channel would take 60 days. AME proposes that Regulation 9(4) should be amended to indicate what types of reasons may apply for refusal of a channel before and not after the fact.

10.2 **Thembeke and Associates** proposes that a restriction or limitation on the option of channel Authorization in the initial phase by ensuring that services such as educational and community radio services will be guaranteed sufficient space for development.

10.3 **NAB** proposes that a deeming provision be included on 60 (sixty) days' time frame so that an application for channel authorization is deemed to have been granted should the Authority not communicate its decision within the prescribed period.

10.4 **The Authority's Reason for Decision on Regulation 9 in the Draft DSB Regulations is as follows:**

10.4.1 The channel authorisation has been amended to incorporate a deeming clause in relation to the 60 days period for the application of channel authorisation. The amendment has been necessitated by the fact that the draft regulation was open ended, thus the Authority needed to provide certainty.

10.4.2 Digital Sound Broadcasting utilises one or more channels, hence the Authority will need to ensure that it authorises any additional channels or services. The 60 days turnaround time for channel authorisation is aligned to regulation 6(5)(6) of the Digital Migration Regulations and regulation 3(4) of Subscription Broadcasting Services Regulations.

**Annexure A: Consideration of Policy Direction on the introduction of DSB
in South Africa**

<p align="center">POLICY DIRECTION ON THE INTRODUCTION OF DSB IN SOUTH AFRICA</p>	<p align="center">CONSIDERATION OF THE POLICY DIRECTION ON THE INTRODUCTION OF DSB IN SOUTH AFRICA</p>
<p>2.1.1 Determine priorities for the establishment of digital broadcasting networks and services in the frequency bands allocated for these services, to introduce DSB services alongside the existing analogue sound broadcasting, to achieve the following developmental goals:</p> <p>2.1.1.1 universal services and access for all;</p> <p>2.1.1.2 introduction of new entrants;</p> <p>2.1.1.3 requirements of existing licensees;</p> <p>2.1.1.4 requirements of consumers;</p> <p>2.1.1.5 promotion of investment;</p> <p>2.1.1.6 promotion of competition;</p> <p>2.1.1.7 technology neutrality;</p> <p>2.1.1.8 innovation;</p>	<p>The Authority is of the view that the developmental goals identified in 2.1.1, and the objects of the ECA are to be prioritised and has done so in the Draft DSB Regulations in the following manner:</p> <p>2.1.1.1 regulation 4 of the Draft Regulations make provision for primary and secondary markets. Regulation 7 refers to the MUX allocation of the three tiers of broadcasting services which will allow for the provision of universal service access for all.</p> <p>2.1.1.2 regulation 4(3) indicates that new players will be accommodated two years after the effective date of the DSB Regulations.</p> <p>2.1.1.3 regulation 4 (2) of the Draft DSB Regulations allows the existing licensees to have a two-year period of simulcasting before</p>

<p>2.1.1.9 sustainability framework;</p> <p>2.1.1.10 maintain quality of service;</p> <p>2.1.1.11 reducing costs; and</p> <p>2.1.1.12 to increase the uptake and usage of digital radio.</p>	<p>new entrants are allowed in the DSB market.</p> <p>2.1.1.4 the consumers will be given a variety of options on sound broadcasting services once DSB is introduced through the Draft DSB Regulations. The continuation of analogue services as envisioned in regulation 4 of the Draft DSB Regulations will make it possible for consumers who may not have access to digital devices to continue receiving sound broadcasting services.</p> <p>2.1.1.5 although the Draft DSB Regulations do not expressly state this, the Authority is of the view that the local manufacturing of DSB devices/receivers will promote investment.</p> <p>2.1.1.6 regulation 4 allows for new entrants to enter the DSB market after a two-year moratorium and once the market is stable or sufficiently established for the introduction of new players in order to promote competition.</p> <p>2.1.1.7 the Draft DSB Regulations introduce two new technologies (DAB+ and DRM+) that indicate that aligns technological neutrality as broadcasters will not be limited to one technology and this further meets the ECA objective of technological neutrality.</p> <p>2.1.1.8 the introduction of DSB services through the Draft DSB Regulations and the implied devices/receivers that will need to</p>
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	<p>be developed will encourage innovation in the sound broadcasting market.</p> <p>2.1.1.9 the phased approach rollout of DSB services in regulation 4 (1) will allow the DSB services to be implemented in a sustainable manner.</p> <p>2.1.1.10 the quality of service in DSB services will be maintained in line with existing broadcasting AM and FM services.</p> <p>2.1.1.11 the competition created by introducing new players after two years as contemplated in regulation 4 (2) of the Draft DSB Regulations will play a role in reducing costs in terms of infrastructure sharing and prices of receivers. This will also include cost reduction in terms of signal distribution.</p> <p>2.1.1.12 the variety of content provided through the introduction of DSB services will encourage listeners to use DSB services.</p>
<p>2.1.2 Ensure that the three-tier system of public, commercial and community broadcasting services are catered for.</p>	<p>2.1.2 The Authority is of the view that that DSB services should encompass the three tiers of broadcasting to ensure that all members of society are acted for and thus regulation 7 of the DSB Regulations speaks to all three tiers.</p>
<p>2.1.3 Consider the lessons learnt in the analogue-to-digital migration</p>	<p>2.1.3 The Authority has considered various challenges experienced in the other tiers of television, which</p>

<p>coverage challenges experienced by the various tiers of television broadcasting (public, commercial and community) within the existing two multiplexer Digital Terrestrial Television environment and consider the introduction of additional terrestrial multiplexers to ensure that different business operational models are catered for.</p>	<p>is reflected in regulation 7 of the Draft DSB Regulations dealing with DSB MUX allocation in line with the Terrestrial Broadcasting Frequency Plan 2013. The issue of adding an additional multiplexer is further being considered in a different process within the Authority to incorporate DRM into the National Radio Frequency Band Plan.</p>
<p>2.1.4 Take into consideration the developments around the introduction of DSB in Africa, the SADC region and around the world.</p>	<p>2.1.4 The Authority has undertaken various benchmarking exercises, desktop research, and study visits that informed the development of the DSB Draft Regulations. South Africa also participated in the African Telecommunications Union's African Spectrum Working Group ("AfriSWoG") meetings in the development of introducing DSB in Africa. AfriSWoG developed a Draft Report on the Introduction of Digital Sound Broadcasting and Optimization of the GE84 Plan in Africa.</p>
<p>2.1.5 Consider harmonisation within the SADC region and as such consider DSB standards adopted within the SADC community, in line with the resolution taken at the meeting of SADC Ministers responsible for Communications and</p>	<p>2.1.5 The Authority notes that it has taken into account the Draft SADC DSB Policy and Regulatory Framework that was developed by CRASA. The Framework acknowledges that SADC Member States signed the GE84 and GE06 agreements, respectively, which stipulates the need to introduce</p>

<p>ICT, held in Durban, South Africa on 4-7 September 2017.</p>	<p>DSB. The need for more efficient use of spectrum for broadcasting services and the need for broadcasters to expand their service portfolios to meet the public's need for access to information and conveyance of messages in emergency situations warrants the Members States to consider the implementation of DSB. The Framework, therefore, recommends a possible implementation framework with respect to the DSB in the Region, which is what the Draft DSB Regulations intend to achieve in South Africa.</p>
<p>2.1.6 Encourage market availability and use of multi-standard receivers to allow for the continued use of analogue FM alongside the variants of the digital technologies, DAB and DRM.</p>	<p>2.1.6 The Authority has ensured in regulation 6 of the Draft DSB Regulations that the new standards are complementary to the analogue FM receivers. The Authority is, however, of the view that the manufacturers are responsible for ensuring the availability and use of multi-standard receivers.</p>
<p>2.1.7 Take into account the extensive trials undertaken by the South African broadcasting industry, as well as the SADC, adopted a position on digital sound technologies for the region, in line with the resolution taken at the meeting of SADC Ministers responsible for Communications and ICT in September 2017, and</p>	<p>2.1.7 In its Findings and Position Paper document the Authority took into account the outcome of the trials conducted by the industry namely, the commercial broadcasting licensees (including the National Association of Broadcasters) and the DRM Consortium.</p>

consider the following DSB standards to complement the respective analogue sound broadcasting services:

2.1.7.1 DRM30 to complement AM sound broadcasting service in the band 535.5- 1606.5 kHz;
2.1.7.2 DRM+ to complement FM sound broadcasting services in the FM band 87.5-108 MHz; and in the allocated VHF sound broadcasting band 214-230 MHz
2.1.7.3 DAB+ to complement VHF sound broadcasting services in the allocated VHF band 214-230 MHz;
2.1.7.4 All DAB and DRM variants of DSB standards to complement the existing analogue sound broadcasting in any other applicable sound broadcasting band within the confines of the prevailing radio frequency plan and consistent with ITU Radio Regulations for Region 1.

2.1.7.1 The Authority is in agreement with the technologies provided for by the Policy Direction except for clause 2.1.7.2, as DRM+ is not contemplated to operate in 214-230 MHz because 214-230 MHz is allocated to DAB+ due to the bandwidth allocated for 1.5 MHz and in terms of the ITU allocation.